Senate

General Assembly

File No. 464

January Session, 2021

Substitute Senate Bill No. 1002

Senate, April 15, 2021

The Committee on Labor and Public Employees reported through SEN. KUSHNER of the 24th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING LABOR ISSUES RELATED TO COVID-19, PERSONAL PROTECTIVE EQUIPMENT AND OTHER STAFFING MATTERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 31-290a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No employer who is subject to the provisions of this chapter shall: **[**discharge,**]** (1) Discharge or cause to be discharged, or in any manner discipline or discriminate against any employee because the employee has filed a claim for workers' compensation benefits or otherwise exercised the rights afforded to him pursuant to the provisions of this chapter, or (2) deliberately misinform or otherwise deliberately dissuade an employee from filing a claim for workers' compensation benefits.

(b) Any employee who is so discharged, disciplined or discriminated against or who has been deliberately misinformed or dissuaded from

filing a claim for workers' compensation benefits may either: (1) Bring a civil action in the superior court for the judicial district where the employer has its principal office for the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he would have otherwise been entitled if he had not been discriminated against or discharged and any other damages caused by such discrimination or discharge. The court may also award punitive damages. Any employee who prevails in such a civil action shall be awarded reasonable attorney's fees and costs to be taxed by the court; or (2) file a complaint with the chairman of the Workers' Compensation Commission alleging violation of the provisions of subsection (a) of this section. Upon receipt of any such complaint, the chairman shall select a commissioner to hear the complaint, provided any commissioner who has previously rendered any decision concerning the claim shall be excluded. The hearing shall be held in the workers' compensation district where the employer has its principal office. After the hearing, the commissioner shall send each party a written copy of his decision. The commissioner may award the employee the reinstatement of his previous job, payment of back wages and reestablishment of employee benefits to which he otherwise would have been eligible if he had not been discriminated against or discharged. Any employee who prevails in such a complaint shall be awarded reasonable attorney's fees. Any party aggrieved by the decision of the commissioner may appeal the decision to the Appellate Court.

Sec. 2. (NEW) (*Effective from passage*) (a) For the purposes of adjudication of claims for payment of benefits under the provisions of chapter 568 of the general statutes, when there is a dispute regarding whether a request for medical and surgical aid or hospital and nursing services, including mechanical aids and prescription drugs, is reasonable or necessary, the employer or insurer shall file a notice of controversy. A copy of the notice of controversy shall be sent to the originator of the request. A health care provider, employee or other interested party may request a hearing regarding payment of medical and related services for determination of any such dispute.

(b) Payment of a medical bill by an employer or insurer shall not be considered an admission by the employer or the insurer as to the reasonableness of subsequent medical bills. The provisions of this section shall not affect the applicability of any notice provision of section 31-294c of the general statutes.

Sec. 3. (NEW) (*Effective from passage*) (a) For the purpose of adjudication of claims for payment of benefits under the provisions of chapter 568 of the general statutes, an employee who died or was unable to work as a result of contracting COVID-19, or due to symptoms that were later diagnosed as COVID-19, at any time during (1) the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, or any extension of such declarations, or (2) any new public health and civil preparedness emergencies declared by the Governor as a result of a COVID-19 outbreak in this state, shall be presumed to have contracted COVID-19 as an occupational disease arising out of and in the course of employment, provided (A) the contraction of COVID-19 by such employee shall be confirmed by a positive laboratory test or, if a laboratory test was not available for the employee, as diagnosed and documented by the employee's licensed physician, licensed physician assistant or licensed advanced practice registered nurse, based on the employee's symptoms, and (B) a copy of the positive laboratory test or the written documentation of the physician's, physician assistant's or advanced practice registered nurse's diagnosis is provided to the employer or insurer. For the purposes of this section, "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease.

(b) The provisions of subsection (a) of this section shall not apply to an employee who, during the fourteen consecutive days immediately preceding the date the employee died or was unable to work due to contracting COVID-19 or due to symptoms that were later diagnosed as COVID-19: (1) Was employed in a capacity where he or she worked solely from home and did not have physical interaction with other

employees, or (2) was the recipient of an individualized written offer or directive from his or her employer to work solely from home but otherwise chose to work at a work site of the employer.

(c) Notwithstanding the definition of "occupational disease" under section 31-396 of the general statutes, COVID-19 shall be considered an occupational disease for any employee who was diagnosed with COVID-19 in accordance with subsection (a) of this section.

(d) The presumption under subsection (a) of this section shall only be rebutted if the employer or insurer clearly demonstrates by a preponderance of the evidence that the employment of the individual was not a direct cause of the occupational disease. The employer or the insurer, within ten days of filing a notice to contest an employee's rights to compensation benefits pursuant to section 31-294c of the general statutes, shall provide evidence to rebut the presumption under subsection (a) of this section. If a compensation commissioner finds that such presumption has been rebutted, such commissioner shall decide the claim on its merits, in accordance with established practices of causation. For purposes of this section, an employee's preexisting condition shall have no bearing on the merits of a claim, both with regard to approving a claim and continuing benefits once they have been awarded. The reapportionment of the levels of the burden of proofs between the parties is a procedural change intended to apply to all existing and future COVID-19 claims.

(e) An employee who has contracted COVID-19 but who is not entitled to the presumption under subsection (a) of this section shall not be precluded from making a claim as provided in chapter 568 of the general statutes.

(f) Beginning on July 1, 2021, and ending on January 1, 2023, the Workers' Compensation Commission shall provide a detailed report on the first business day of each month on COVID-19 workers' compensation claims and shall provide such reports to the joint standing committees of the General Assembly having cognizance of matters relating to labor and insurance. Such monthly reports shall

contain: (1) The number of total COVID-19 workers' compensation claims filed since May 10, 2020; (2) the number of record-only claims filed by hospitals, nursing homes, municipalities and other employers, listed by employer name; (3) the number of COVID-19 workers' compensation cases filed by state employees in each agency; (4) the number of such claims contested by each individual employer, including state agencies, third-party administrators and insurers, by client; (5) the reasons cited by each employer, including state agencies, third-party administrators and insurers, by client, for contesting such claims; (6) the number of claims that have received a hearing by the Workers' Compensation Commission; (7) the number of: (A) Rulings by the Workers' Compensation Commission regarding such claims that have been appealed, (B) approved voluntary agreements, (C) findings and awards, (D) findings and dismissals, (E) petitions for review, and (F) stipulations; (8) the average time it took to schedule an initial hearing once it has been requested; and (9) the average time it took to adjudicate contested COVID-19 workers' compensation claims. Employers, including state agencies, third-party administrators and insurers shall comply with all requests from the Workers' Compensation Commission for information required to compile the reports.

Sec. 4. Subsection (a) of section 31-306 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Compensation shall be paid to dependents on account of death resulting from an accident arising out of and in the course of employment or from an occupational disease as follows:

(1) Four thousand dollars shall be paid for burial expenses in any case in which the employee died on or after October 1, 1988, and before the effective date of this act, and twenty thousand dollars shall be paid for burial expenses in any case in which the employee died on or after the effective date of this act. On January 1, 2022, and not later than each January first thereafter, the compensation for burial benefits shall be adjusted by the percentage increase between the last complete calendar

year and the previous calendar year in the consumer price index for urban wage earners and clerical workers in the northeast, with no seasonal adjustment, as calculated by the United States Department of Labor's Bureau of Labor Statistics. If there is no one wholly or partially dependent upon the deceased employee, the burial expenses **[**of four thousand dollars**]** shall be paid to the person who assumes the responsibility of paying the funeral expenses.

(2) Twenty thousand dollars shall be paid for burial expenses in any case in which an employee died due to contracting COVID-19 during (A) the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, or any extension of such declarations, or (B) any new public health and civil preparedness emergencies declared by the Governor as a result of a COVID-19 outbreak in this state. For the purposes of this subdivision, "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease.

[(2)**]** (3) To those wholly dependent upon the deceased employee at the date of the deceased employee's injury, a weekly compensation equal to seventy-five per cent of the average weekly earnings of the deceased calculated pursuant to section 31-310, after such earnings have been reduced by any deduction for federal or state taxes, or both, and for the federal Insurance Contributions Act made from such employee's total wages received during the period of calculation of the employee's average weekly wage pursuant to said section 31-310, as of the date of the injury but not more than the maximum weekly compensation rate set forth in section 31-309 for the year in which the injury occurred or less than twenty dollars weekly. (A) The weekly compensation rate of each dependent entitled to receive compensation under this section as a result of death arising from a compensable injury occurring on or after October 1, 1977, shall be adjusted annually as provided in this subdivision as of the following October first, and each subsequent October first, to provide the dependent with a cost-of-living adjustment

in the dependent's weekly compensation rate as determined as of the date of the injury under section 31-309. If the maximum weekly compensation rate, as determined under the provisions of said section 31-309, to be effective as of any October first following the date of the injury, is greater than the maximum weekly compensation rate prevailing at the date of the injury, the weekly compensation rate which the injured employee was entitled to receive at the date of the injury or October 1, 1990, whichever is later, shall be increased by the percentage of the increase in the maximum weekly compensation rate required by the provisions of said section 31-309 from the date of the injury or October 1, 1990, whichever is later, to such October first. The cost-of-living increases provided under this subdivision shall be paid by the employer without any order or award from the commissioner. The adjustments shall apply to each payment made in the next succeeding twelve-month period commencing with the October first next succeeding the date of the injury. With respect to any dependent receiving benefits on October 1, 1997, with respect to any injury occurring on or after July 1, 1993, and before October 1, 1997, such benefit shall be recalculated to October 1, 1997, as if such benefits had been subject to recalculation annually under this subparagraph. The difference between the amount of any benefits that would have been paid to such dependent if such benefits had been subject to such recalculation and the actual amount of benefits paid during the period between such injury and such recalculation shall be paid to the dependent not later than December 1, 1997, in a lump-sum payment. The employer or its insurer shall be reimbursed by the Second Injury Fund, as provided in section 31-354, for adjustments, including lump-sum payments, payable under this subparagraph for deaths from compensable injuries occurring on or after July 1, 1993, and before October 1, 1997, upon presentation of any vouchers and information that the Treasurer shall require. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurer paid such benefits in accordance with this subparagraph. (B) The weekly compensation rate of each dependent entitled to receive compensation under this section

as a result of death arising from a compensable injury occurring on or before September 30, 1977, shall be adjusted as of October 1, 1977, and October 1, 1980, and thereafter, as provided in this subdivision to provide the dependent with partial cost-of-living adjustments in the dependent's weekly compensation rate. As of October 1, 1977, the weekly compensation rate paid prior to October 1, 1977, to the dependent shall be increased by twenty-five per cent. The partial cost-of-living adjustment provided under this subdivision shall be paid by the employer without any order or award from the commissioner. In addition, on each October first, the weekly compensation rate of each dependent as of October 1, 1990, shall be increased by the percentage of the increase in the maximum compensation rate over the maximum compensation rate of October 1, 1990, as determined under the provisions of section 31-309 existing on October 1, 1977. The cost of the adjustments shall be paid by the employer or its insurance carrier who shall be reimbursed for such cost from the Second Injury Fund as provided in section 31-354 upon presentation of any vouchers and information that the Treasurer shall require. No claim for payment of retroactive benefits may be made to the Second Injury Fund more than two years after the date on which the employer or its insurance carrier paid such benefits in accordance with this subparagraph.

[(3)**]** (4) If the surviving spouse is the sole presumptive dependent, compensation shall be paid until death or remarriage.

[(4)**]** (5) If there is a presumptive dependent spouse surviving and also one or more presumptive dependent children, all of which children are either children of the surviving spouse or are living with the surviving spouse, the entire compensation shall be paid to the surviving spouse in the same manner and for the same period as if the surviving spouse were the sole dependent. If, however, any of the presumptive dependent children are neither children of the surviving spouse nor living with the surviving spouse, the compensation shall be divided into as many parts as there are presumptive dependents. The shares of any children having a presumptive dependent parent shall be added to the share of the parent and shall be paid to the parent. The share of any

dependent child not having a surviving dependent parent shall be paid to the father or mother of the child with whom the child may be living, or to the legal guardian of the child, or to any other person, for the benefit of the child, as the commissioner may direct.

[(5)**]** (6) If the compensation being paid to the surviving presumptive dependent spouse terminates for any reason, or if there is no surviving presumptive dependent spouse at the time of the death of the employee, but there is at either time one or more presumptive dependent children, the compensation shall be paid to the children as a class, each child sharing equally with the others. Each child shall receive compensation until the child reaches the age of eighteen or dies before reaching age eighteen, provided the child shall continue to receive compensation up to the attainment of the age of twenty-two if unmarried and a full-time student, except any child who has attained the age of twenty-two while a full-time student but has not completed the requirements for, or received, a degree from a postsecondary educational institution shall be deemed not to have attained age twenty-two until the first day of the first month following the end of the quarter or semester in which the child is enrolled at the time, or if the child is not enrolled in a quarter or semester system, until the first day of the first month following the completion of the course in which the child is enrolled or until the first day of the third month beginning after such time, whichever occurs first. When a child's participation ceases, such child's share shall be divided among the remaining eligible dependent children, provided if any child, when the child reaches the age of eighteen years, is physically or mentally incapacitated from earning, the child's right to compensation shall not terminate but shall continue for the full period of incapacity.

[(6)**]** (7) In all cases where there are no presumptive dependents, but where there are one or more persons wholly dependent in fact, the compensation in case of death shall be divided according to the relative degree of their dependence. Compensation payable under this subdivision shall be paid for not more than three hundred and twelve weeks from the date of the death of the employee. The compensation, if paid to those wholly dependent in fact, shall be paid at the full

compensation rate. The compensation, if paid to those partially dependent in fact upon the deceased employee as of the date of the injury, shall not, in total, be more than the full compensation rate nor less than twenty dollars weekly, nor, if the average weekly sum contributed by the deceased at the date of the injury to those partially dependent in fact is more than twenty dollars weekly, not more than the sum so contributed.

[(7)**]** (8) When the sole presumptive dependents are, at the time of the injury, nonresident aliens and the deceased has in this state some person or persons who are dependent in fact, the commissioner may in the commissioner's discretion equitably apportion the sums payable as compensation to the dependents.

Sec. 5. Subdivision (16) of section 31-275 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(16) (A) "Personal injury" or "injury" includes, in addition to accidental injury that may be definitely located as to the time when and the place where the accident occurred, an injury to an employee that is causally connected with the employee's employment and is the direct result of repetitive trauma or repetitive acts incident to such employment, and occupational disease.

(B) "Personal injury" or "injury" shall not be construed to include:

(i) An injury to an employee that results from the employee's voluntary participation in any activity the major purpose of which is social or recreational, including, but not limited to, athletic events, parties and picnics, whether or not the employer pays some or all of the cost of such activity;

(ii) A mental or emotional impairment, unless such impairment (I) arises from a physical injury or occupational disease, (II) in the case of a police officer of the Division of State Police within the Department of Emergency Services and Public Protection, an organized local police

department or a municipal constabulary, arises from such police officer's use of deadly force or subjection to deadly force in the line of duty, regardless of whether such police officer is physically injured, provided such police officer is the subject of an attempt by another person to cause such police officer serious physical injury or death through the use of deadly force, and such police officer reasonably believes such police officer to be the subject of such an attempt, or (III) in the case of **[**a police officer, parole officer or firefighter**]** an eligible individual as defined in section 31-294k, as amended by this act, is a diagnosis of post-traumatic stress **[**disorder**]** injury as defined in section 31-294k, as amended by this act, that meets all the requirements of section 31-294k, as amended by this act. As used in this clause, "in the line of duty" means any action that a police officer is obligated or authorized by law, rule, regulation or written condition of employment service to perform, or for which the police officer or firefighter is compensated by the public entity such officer serves;

(iii) A mental or emotional impairment that results from a personnel action, including, but not limited to, a transfer, promotion, demotion or termination; or

(iv) Notwithstanding the provisions of subparagraph (B)(i) of this subdivision, "personal injury" or "injury" includes injuries to employees of local or regional boards of education resulting from participation in a school-sponsored activity but does not include any injury incurred while going to or from such activity. As used in this clause, "school-sponsored activity" means any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property and "participation" means acting as a chaperone, advisor, supervisor or instructor at the request of an administrator with supervisory authority over the employee.

Sec. 6. Section 31-294k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section:

(1) "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease;

(2) "Eligible individual" means a police officer, firefighter, emergency medical services personnel, Department of Correction employee, telecommunicator or health care provider;

(3) "Emergency medical services personnel" has the same meaning as provided in section 20-206jj;

[(1)**]** (4) "Firefighter" has the same meaning as provided in section 7-313g;

(5) "Health care provider" means a person employed at a doctor's office, hospital, health care center, clinic, medical school, local health department or agency, nursing facility, retirement facility, nursing home, group home, home health care provider, any facility that performs laboratory or medical testing, pharmacy or any similar institution, or a person employed to provide personal care assistance, as defined in section 17b-706;

[(2)**]** (6) "In the line of duty" means any action that **[**a police officer, parole officer or firefighter**]** an eligible individual is obligated or authorized by law, rule, regulation or written condition of employment service to perform, or for which the **[**officer or firefighter**]** eligible individual is compensated by the public entity such **[**officer or firefighter**]** individual serves, except that, in the case of a volunteer firefighter, such action or service constitutes fire duties, as defined in subsection (b) of section 7-314b;

[(3)**]** (7) "Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to chapter 383, who has experience diagnosing and treating post-traumatic stress **[**disorder**]** injury;

[(4)**]** (8) "Parole officer" means an employee of the Department of

Correction who supervises inmates in the community after their release from prison on parole or under another prison release program;

[(5)**]** (9) "Police officer" has the same meaning as provided in section 7-294a, except that "police officer" does not include an officer of a law enforcement unit of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of Connecticut;

[(6) "Post-traumatic stress disorder"**]** (10) "Post-traumatic stress injury" means **[**a disorder**]** an injury that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders"; **[**and**]**

[(7)**]** (11) "Qualifying event" means: **[**an**]**

(A) An event occurring in the line of duty on or after July 1, 2019, in which a police officer, parole officer, **[**or**]** firefighter, emergency medical services personnel, Department of Correction employee or telecommunicator:

[(A)**]** (i) Views a deceased minor;

[(B)**]** (ii) Witnesses the death of a person or an incident involving the death of a person;

[(C)**]** (iii) Witnesses an injury to a person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause;

[(D)**]** (iv) Has physical contact with and treats an injured person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause;

[(E)**]** (v) Carries an injured person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause; or

[(F)**]** (vi) Witnesses a traumatic physical injury that results in the loss

of a vital body part or a vital body function that results in permanent disfigurement of the victim; **[**.**]** or

(B) An event arising out of and in the course of employment on or after March 10, 2020, in which an eligible individual who is a health care provider is engaged in activities substantially dedicated to mitigating or responding to the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, or any extension of such emergency declarations, and:

(i) Witnesses the death of a person due to COVID-19 or due to symptoms that were later diagnosed as COVID-19;

(ii) Witnesses an injury to a person who subsequently dies as a result of COVID-19 or due to symptoms that were later diagnosed as COVID-19;

(iii) Has physical contact with and treats or provides care for a person who subsequently dies as a result of COVID-19 or due to symptoms that were later diagnosed as COVID-19; or

(iv) Witnesses a traumatic physical injury that results in the loss of a vital body function of a person due to COVID-19 or due to symptoms that were later diagnosed as COVID-19;

(12) "Telecommunicator" has the same meaning as provided in section 28-30; and

(13) "Witnesses" means, for an eligible individual who is a telecommunicator, hears by telephone or radio.

(b) A diagnosis of post-traumatic stress **[**disorder**]** injury is compensable as a personal injury as described in subparagraph (B)(ii)(III) of subdivision (16) of section 31-275, as amended by this act, if a mental health professional examines **[**a police officer, parole officer or firefighter**]** the eligible individual and diagnoses the **[**officer or firefighter**]** individual with a post-traumatic stress **[**disorder**]** injury as a direct result of a qualifying event, provided (1) the post-traumatic stress

[disorder**]** injury resulted from **[**the officer or firefighter**]** (A) the eligible individual acting in the line of duty if such individual is a police officer, firefighter, emergency medical services personnel, Department of Correction employee or telecommunicator and, in the case of a firefighter, such firefighter complied with Federal Occupational Safety and Health Act standards adopted pursuant to 29 CFR 1910.134 and 29 CFR 1910.156, or (B) the eligible individual acting the course of employment if such individual is a health care provider, (2) a qualifying event was a substantial factor in causing the **[**disorder, (3) such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder**]** injury, and **[**(4)**]** (3) the post-traumatic stress **[**disorder**]** injury did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action of the **[**officer or firefighter**]** eligible individual. Any such mental health professional shall comply with any workers' compensation guidelines for approved medical providers, including, but not limited to, guidelines on release of past or contemporaneous medical records.

(c) Whenever liability to pay compensation is contested by the employer, the employer shall file with the commissioner, on or before the twenty-eighth day after the employer has received a written notice of claim, a notice in accordance with a form prescribed by the chairperson of the Workers' Compensation Commission stating that the right to compensation is contested, the name of the claimant, the name of the employer, the date of the alleged injury and the specific grounds on which the right to compensation is contested. The employer shall send a copy of the notice to the employee in accordance with section 31-321. If the employer or the employer's legal representative fails to file the notice contesting liability on or before the twenty-eighth day after receiving the written notice of claim, the employer shall commence payment of compensation for such injury on or before the twenty-eighth day after receiving the written notice of claim, but the employer may contest the employee's right to receive compensation on any grounds or the extent of the employee's disability within one hundred eighty days from the receipt of the written notice of claim and any benefits paid

during the one hundred eighty days shall be considered payments without prejudice, provided the employer shall not be required to commence payment of compensation when the written notice of claim has not been properly served in accordance with section 31-321 or when the written notice of claim fails to include a warning that the employer (1) if the employer has commenced payment for the alleged injury on or before the twenty-eighth day after receiving a written notice of claim, shall be precluded from contesting liability unless a notice contesting liability is filed within one hundred eighty days from the receipt of the written notice of claim, and (2) shall be conclusively presumed to have accepted the compensability of the alleged injury unless the employer either files a notice contesting liability on or before the twenty-eighth day after receiving a written notice of claim or commences payment for the alleged injury on or before such twenty-eighth day. An employer shall be entitled, if the employer prevails, to reimbursement from the claimant of any compensation paid by the employer on and after the date the commissioner receives written notice from the employer or the employer's legal representative, in accordance with the form prescribed by the chairperson of the Workers' Compensation Commission, stating that the right to compensation is contested. Notwithstanding the provisions of this subsection, an employer who fails to contest liability for an alleged injury on or before the twenty-eighth day after receiving a written notice of claim and who fails to commence payment for the alleged injury on or before such twenty-eighth day, shall be conclusively presumed to have accepted the compensability of the alleged injury. If an employer has opted to post an address of where notice of a claim for compensation by an employee shall be sent, as described in subsection (a) of section 31-294c, the twenty-eight-day period set forth in this subsection shall begin on the date when such employer receives written notice of a claim for compensation at such posted address.

(d) Notwithstanding any provision of this chapter, workers' compensation benefits for any **[**police officer, parole officer or firefighter**]** eligible individual for a personal injury described in subparagraph (B)(ii)(III) of subdivision (16) of section 31-275, as amended by this act, shall (1) include any combination of medical

treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under section 31-307 and temporary partial incapacity benefits under subsection (a) of section 31-308, and (2) be provided for a maximum of fifty-two weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under section 31-307 or temporary partial incapacity benefits under subsection (a) of section 31-308 shall be awarded beyond four years from the date of the qualifying event that formed the basis for the personal injury. The weekly benefits received by an **[**officer or a firefighter**]** eligible individual pursuant to section 31-307 or subsection (a) of section 31-308, when combined with other benefits including, but not limited to, contributory and noncontributory retirement benefits, Social Security benefits, benefits under a long-term or short-term disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such **[**officer or firefighter**]** eligible individual. An **[**officer or firefighter**]** eligible individual receiving benefits pursuant to this subsection shall not be entitled to benefits pursuant to subsection (b) of section 31-308 or section 31-308a.

Sec. 7. (NEW) (*Effective from passage*) (a) As used in this section:

(1) "Compensation" means an employee's average weekly earnings for the twelve-month period immediately preceding the date of the employee's last day of active employment with an employer, including wages or salary, payments to an employee while on vacation or on leave, allocated or declared tip income, bonuses or commissions, contributions or premiums paid by the employer for fringe benefits, overtime or other premium payments, and allowances for expenses, uniforms, travel or education;

(2) "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease;

(3) "Customary seasonal work" means work performed by an employee for approximately the same portion of each calendar year;

(4) "Employer" means any person, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, conducts an enterprise and employs or exercises control over the wages, hours or working conditions of any employee;

(5) "Employment site" means the principal physical place where a laid-off employee performed the predominance of the employee's duties prior to being laid off, or, in the case of a laid-off employee in construction, transportation, building services or other industries where work is performed at locations other than the employer's administrative headquarters from which such assignments were made, any location served by such headquarters;

(6) "Enterprise" means any income-producing economic activity carried on in this state that employs five or more employees;

(7) "Laid-off employee" means any employee who was employed by the employer for six months or more in the twelve months preceding March 10, 2020, and whose most recent separation from active service or whose failure to be scheduled for customary seasonal work by that employer occurred after March 10, 2020, and before December 31, 2024, and was due to government shutdown orders, lack of business, or a reduction or furlough of the employer's workforce; and

(8) "Length of service" means the total of all periods of time during which an employee has been in active service, including periods of time when the employee was on leave or on vacation.

(b) Each employer shall send to each of its laid-off employees, in writing to such employee's last-known physical address and electronic mail address, and in a text message to such employee's mobile phone, notice of all job positions that become available at the employer for which the laid-off employee is qualified. A laid-off employee is qualified for a position if the employee: (1) Held the same or similar position at the enterprise at the time of the employee's most recent separation from

active service with the employer; or (2) is or can be qualified for the position with the same training that would be provided to a new employee hired for such position. The employer shall offer such positions to laid-off employees in the order of preference set forth under subdivisions (1) and (2) of this subsection. Where more than one employee is entitled to preference for a position, the employer shall offer the position to the employee with the greatest length of service at the employment site. An employer may make offers of employment for a position to more than one laid-off employee with the final offer of employment for such position conditioned upon the order of preference described in this subsection.

(c) An offer of employment to a laid-off employee pursuant to this section shall be in the same classification or job title at substantially the same employment site, subject to relocation as provided in subdivision (4) of subsection (g) of this section, and with substantially the same duties, compensation, benefits and working conditions as applied to the laid-off employee immediately prior to March 10, 2020.

(d) Any laid-off employee who is offered a position pursuant to this section shall be given not less than ten days in which to accept or decline the offer. A laid-off employee who declines an offer due to his or her age, underlying health conditions of himself or herself or of a family member or other person living in his or her household shall retain his or her right to accept the position and shall retain all other rights under this section until both (1) the expiration of the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, and any extension of such emergency declarations, and (2) the laid-off employee is reoffered the position.

(e) Each employer that declines to rehire a laid-off employee on the grounds of lack of qualifications and instead hires a person other than a laid-off employee shall provide to the laid-off employee a written notice not later than thirty days after the date such other person is hired. Such notice shall identify the person hired in lieu of rehiring the laid-off employee, the reasons for such decision and all demographic data the

employer has regarding such new hire and the laid-off employee who was not rehired.

(f) Laid-off employees rehired pursuant to this section shall be permitted to work for not less than thirty work days, unless there is just cause for the employee's termination.

(g) The requirements of this section shall apply under any of the following circumstances:

(1) The ownership of the employer changed after a laid-off employee was laid off, but the enterprise continues to conduct the same or similar operations it did prior to March 10, 2020;

(2) The form of organization of the employer changed after March 10, 2020;

(3) Substantially all of the assets of the employer were acquired by another entity that conducts the same or similar operations using substantially the same assets; or

(4) The employer relocates the operations at which a laid-off employee was employed prior to March 10, 2020, to a different employment site not greater than twenty-five miles away from the original employment site.

(h) No employer shall terminate, refuse to reemploy, reduce compensation or otherwise take any adverse action against any person seeking to enforce his or her rights under this section or for participating in proceedings related to this section, opposing the violation of any provision of this section or otherwise asserting rights under this section.

(i) An employer that terminates, refuses to reemploy or takes any other adverse action against any laid-off employee shall provide to the employee, at or before the time of the termination, refusal to reemploy or other adverse action, a detailed written statement of the reason or reasons for the termination, refusal to reemploy or other adverse action, including all the facts substantiating the reason or reasons and all facts

known to the employer that contradict the substantiating facts.

(j) (1) A laid-off employee aggrieved by a violation of any provision of this section may bring a civil in the Superior Court or may designate an agent or representative to maintain the action on behalf of the employee.

(2) If the court finds that the employer has violated any provision of this section, the court may enjoin the employer from engaging in such violation and may order such affirmative action as the court deems appropriate, including, but not limited to, the reinstatement or rehiring of the laid-off employee, with or without back pay and fringe benefits, or other equitable relief as the court deems appropriate. Interim earnings or amounts earnable with reasonable diligence by the laid-off employee who was subjected to the violation shall be deducted from the back pay permitted under this subdivision and any reasonable amounts expended by the laid-off employee in searching for, obtaining or relocating to new employment shall be deducted from the interim earnings before such earnings are deducted from such back pay. The court may order (A) compensatory and punitive damages if the court finds that the employer committed the violation with malice or with reckless indifference to the provisions of this section, and (B) treble damages if the court finds that the employer terminated the laid-off employee in violation of the provisions of subsection (h) of this section. Any laid-off employee who prevails in a civil action shall be awarded reasonable attorney's fees and costs to be taxed by the court.

(k) The provisions of this section shall apply to each laid-off employee, whether or not such laid-off employee is represented for purposes of collective bargaining or is covered by a collective bargaining agreement, and may be waived in a bona fide collective bargaining agreement but only if the waiver is explicitly set forth in the agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute or be permitted as a waiver of all or any part of the provisions of this section. Nothing in this section

shall be construed to invalidate or limit the rights, remedies and procedures of any contract or agreement that provides equal or greater protection for laid-off employees than provided by this section and it shall not be a violation of this section for an employer to follow an order of preference for rehiring laid-off employees required by a collective bargaining agreement that is different from the order of preference required by this section.

Sec. 8. (NEW) (*Effective from passage*) (a) As used in this section and section 9 of this act, "personal protective equipment" means specialized clothing or equipment worn by an employee for protection against infectious disease and materials, including, but not limited to, protective equipment for the eyes, face, head and extremities, protective clothing and protective shields and barriers.

(b) Not later than six months after the end of the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, or the effective date of this section, whichever is later, the Commissioner of Public Health, in consultation with the Department of Administrative Services and the Division of Emergency Management and Homeland Security, shall award a contract or contracts for the procurement of personal protective equipment to create two stockpiles of such equipment pursuant to this section. The commissioner may make awards to multiple bidders and shall, to the maximum extent feasible, pay for the personal protective equipment with federal public health emergency funds. Each stockpile shall be gradually filled to a capacity determined by the commissioner, provided at least one third of the capacity of the stockpile shall be filled each year until capacity is met. If personal protective equipment from a stockpile is used, the stockpile shall be refilled in a manner similar to how the initial stockpile was filled.

(c) One stockpile shall consist of personal protective equipment approved for use by a federal agency and one stockpile shall consist of personal protective equipment approved for use by the Department of Public Health, in consultation with the Department of Administrative

Services and the Division of Emergency Management and Homeland Security. Fifty per cent of the personal protective equipment in each stockpile shall, to the maximum extent feasible, be manufactured in this state, and thirty per cent of the personal protective equipment in each stockpile shall, to the maximum extent feasible, be manufactured in the United States.

(d) (1) During a declaration of a public health emergency, the Commissioner of Public Health shall make personal protective equipment in such stockpiles available without charge to state agencies, political subdivisions of the state, nursing homes, hospitals, nonprofit organizations and public schools. If the commissioner determines, after making such personal protective equipment available, that there is an excess supply of personal protective equipment, the commissioner shall make such excess supply available for purchase by other private entities at fair market value. The commissioner shall establish orders of priority for the entities that may gain access to the state's personal protective equipment stockpiles.

(2) When any personal protective equipment in a stockpile is within one year of its expiration date, the commissioner shall make such personal protective equipment available for sale at no more than fair market value to the following entities, in order of priority: (A) Private nursing homes in this state, (B) federally qualified healthcare centers in this state, (C) hospitals, (D) nonprofit hospitals and entities that provide direct medical care in this state, (E) public school districts in this state, and (F) private schools and nonpublic charter schools in this state. To the extent feasible, expired personal protective equipment shall be disposed of in an environmentally sound manner.

(e) The Division of Emergency Management and Homeland Security, in consultation with the Department of Public Health and the Department of Administrative Services, shall submit a report annually to the Governor and the General Assembly, in accordance with the provisions of section 11-4a of the general statutes, on the status of the stockpiles. The report shall include data on the price paid by the state

for the personal protective equipment and data on any personal protective equipment sold by the state. The reports shall be made available to the public on the Internet web site of the Division of Emergency Management and Homeland Security.

Sec. 9. (NEW) (*Effective from passage*) The Division of Emergency Management and Homeland Security, in consultation with the Department of Public Health, shall establish a process to evaluate, distribute and approve personal protective equipment for use during public health emergencies. The process shall be designed to assist the production of personal protective equipment by businesses not otherwise engaged in the production of such equipment and not approved by a federal agency to produce such equipment, and shall prioritize businesses that manufacture personal protective equipment in this state. The process shall require the Department of Administrative Services to assist the Division of Emergency Management and Homeland Security and the Department of Public Health in the review of such businesses to ensure such businesses are legitimate and do not have any unresolved safety or health citations.

Sec. 10. (NEW) (*Effective from passage*) (a) As used in this section:

(1) "Department" means the Department of Public Health;

(2) "Health care provider" has the same meaning as provided in section 19a-17b of the general statutes, except that "health care provider" does not include an independent medical practice that is owned and operated, or maintained as a clinic or office, by one or more licensed physicians and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment unless the medical practice is operated or maintained exclusively as part of an integrated health system or health facility;

(3) "Long-term care provider" means a home health care agency, home health aide agency, behavioral health facility, alcohol or drug treatment facility, assisted living services agency or nursing home, each

as defined in section 19a-490 of the general statutes;

(4) "Covered provider" means a health care provider or long-term care provider;

(5) "Health care worker" means an individual employed by a health care provider;

(6) "Long-term care worker" means an individual employed by a long-term care provider; and

(7) "Personal protective equipment" or "PPE" means specialized clothing or equipment worn by an employee for protection against infectious disease and materials, including, but not limited to, protective equipment for the eyes, face, head and extremities, protective clothing and protective shields and barriers.

(b) On and after January 1, 2023, or one year after regulations are adopted pursuant to subsection (g) of this section, whichever is later, each covered provider shall maintain an unexpired inventory of PPE deemed sufficient by the Commissioner of Public Health for ninety days of surge consumption in the event of a state of emergency declaration by the Governor, or a local emergency for a pandemic or other health emergency. Personal protective equipment in the inventory shall be new and not previously worn or used. Each covered provider shall provide an inventory of its PPE to the department upon request from the department. Except as provided in subsections (d) and (e) of this section, a covered provider that violates this subsection shall be subject to a civil penalty in the amount of twenty-five thousand dollars.

(c) If a covered provider provides services in a facility or other setting controlled or owned by another covered provider that is obligated to maintain a PPE inventory pursuant to this section, the covered provider that controls or owns the facility or other setting shall be required to maintain the required PPE for the covered provider providing services in such facility or setting.

(d) Any covered provider may apply to the department, in writing,

for a waiver of some or all of the PPE inventory requirements described in subsection (b) of this section. The department may approve the waiver if the covered provider has twenty-five or fewer employees and the covered provider agrees to close in-person operations during any public health emergency in which increased use of PPE is recommended by the department until sufficient PPE becomes available to the covered provider to return to in-person operations.

(e) (1) The department may exempt a covered provider from the civil penalty under subsection (b) of this section if the department determines that supply chain limitations make meeting the required supply level infeasible, and (A) a covered provider has made a reasonable attempt, as determined by the department, to obtain PPE, or (B) the covered provider shows that meeting the required supply level is not possible due to issues beyond the covered provider's control, such as the covered provider ordered the PPE but such order was not fulfilled by the manufacturer or distributor or the PPE was damaged in transit or stolen.

(2) A covered provider shall not be assessed a civil penalty under subsection (b) of this section if the covered provider's PPE inventory falls below the required supply level as a result of the covered provider's distribution of PPE to its health care workers or long-term care workers, or to another covered provider's workers, during a state of emergency declared by the Governor or a declared local emergency for a pandemic or other health emergency, provided the covered provider replenishes its inventory to the required supply level not later than thirty days after the date the inventory falls below the required supply level if the department has determined there is not a supply limitation.

(f) A covered provider shall supply PPE to its health care workers and long-term care workers and require that such workers use the PPE.

(g) The department shall adopt regulations, in accordance with chapter 54 of the general statutes, to carry out the provisions of this section. Such regulations shall (1) establish requirements for the surge capacity levels described in subsection (b) of this section, including, but

not limited to, the types and amount of PPE to be maintained by the covered provider based on the type and size of each covered provider, as well as the composition of health care workers and long-term care workers in its workforce, and (2) not establish policies or standards that are less protective or prescriptive than any federal, state or local law on PPE standards.

Sec. 11. (NEW) (*Effective from passage*) (a) Each acute care hospital and nursing home shall collect data on COVID-19 in a form and format prescribed by the Commissioner of Public Health (1) each day during the time period of the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, or any extension of such time periods, and (2) monthly after the expiration of such time periods. The COVID-19 data shall be based on nationally recognized and recommended standards and shall include, but need not be limited to for each such hospital and nursing home: (A) Current inpatient data of COVID-19 cases, hospitalizations and deaths, (B) the number of employees exposed to COVID-19 and exhibiting symptoms of COVID-19 who were tested for COVID-19, (C) the number of asymptomatic employees tested for COVID-19, (D) the number of COVID-19 vaccines administered, (E) census data of beds and ventilators, and (F) an inventory of personal protective equipment, including the quantity in possession and the utilization rate.

(b) Each acute care hospital and nursing home shall post such data to such hospital's and nursing home's Internet web site each day during the time period of the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, or any extension of such time periods, and quarterly after such time period has expired. For purposes of this section, "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease.

Sec. 12. (NEW) (*Effective from passage*) As used in this section and sections 13 to 16, inclusive, of this act:

(1) "Covered week" means any week within the eligible time period in which a covered employee was required to perform work for an employer at the job site or away from the covered employee's home;

(2) "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease;

(3) "Eligible time period" means the period beginning March 20, 2020, and ending April 30, 2021;

(4) "Essential employee" means any person employed in a category recommended by the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices as of February 20, 2021, to receive a COVID-19 vaccination in phase 1b of the COVID-19 vaccination program;

(5) "Covered employee" means any essential employee or specialized risk employee;

(6) "Employer" means the employer of a covered employee and includes consumers, as defined in section 17b-706 of the general statutes;

(7) "First responder" means any (A) peace officer, as defined in section 53a-3 of the general statutes, (B) firefighter, as defined in section 7-313g of the general statutes, (C) person employed as a firefighter by a private employer, (D) ambulance driver, emergency medical responder, emergency medical technician, advanced emergency medical technician or paramedic, each as defined in section 19a-175 of the general statutes, or (E) telecommunicator, as defined in section 28-30 of the general statutes; and

(8) "Specialized risk employee" means any (A) person employed in a category recommended by the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices as of February 20, 2021, to receive a COVID-19 vaccination in phase 1a of the COVD-19 vaccination program, (B) first responder, (C) employee

required to work in congregate settings or with persons infected with COVID-19, or (D) personal care attendant, as defined in section 17b-706 of the general statutes.

Sec. 13. (NEW) (*Effective from passage*) (a) There is established within the Department of Social Services the Essential Employees Pandemic Pay Grant Program to administer and award grants to employers whose covered employees were engaged in activities substantially dedicated to mitigating or responding to the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, during the eligible period. Not less than fifteen per cent of unrestricted funds received by the state from January 1, 2021, to July 1, 2021, inclusive, for purposes of COVID-19 relief shall be appropriated to fund grants under the program.

(b) Not later than July 1, 2021, or sixty days after the Commissioner of Social Services certifies that the program is established and available, whichever is later, each employer shall apply to the department for a grant under the program in an amount sufficient to make payments of additional compensation to covered employees pursuant to subdivision (1) of subsection (a) of section 14 of this act. The department shall issue such grants requested on the grant application not later than thirty days after the date grant applications are due, provided if the amount appropriated to the program under subsection (a) of this section is insufficient to fund the full amount of such grants, the department shall prorate each grant by such amount as is necessary to issue a grant payment to each employer who submitted an application.

Sec. 14. (NEW) (*Effective from passage*) (a) Each employer that receives a grant under section 13 of this act shall pay each of its covered employees additional compensation for each hour worked by such covered employee during a covered week. Such compensation shall be in addition to all other compensation, including wages, remuneration or other pay and benefits the covered employee otherwise receives from the employer, and shall be paid in an amount (1) equal to five dollars per hour worked for essential employees and ten dollars per hour

worked for specialized risk employees if the employer received a grant in the full amount for which the employer applied, or (2) prorated as necessary to distribute the grant funds to each covered employee if the employer received a grant in an amount less than the amount for which the employer applied. No employer may deny such compensation based upon the quality or type of work the covered employee performed during such covered week.

(b) Such compensation shall be provided to the covered employee as a lump sum payment in the first regularly scheduled payment of wages after the employer's receipt of the grant. In any case where the employer is unable to arrange for payment of the amount due to the covered employee in the first regularly scheduled payment of wages, such amounts shall be paid as soon as practicable, but not later than the second regularly scheduled payment of wages after the employer's receipt of the grant. Such compensation shall be clearly demarcated as a separate line item in each paystub or other document provided to a covered employee that details the remuneration the covered employee received from the employer for a particular period of time. If any covered employee does not otherwise regularly receive any such paystub or other document from the employer, the employer shall provide such paystub or other document to the covered employee for the duration of the period in which the employer provides additional compensation under subsection (a) of this section.

(c) (1) Any employer receiving a grant pursuant to section 13 of this act or providing additional compensation to a covered employee under this section shall not reduce or in any way diminish the compensation, including the wages, remuneration or other pay or employment benefits of a covered employee from March 20, 2020, to June 30, 2021, inclusive, from the level provided to the covered employee on the date before the effective date of this act.

(2) An employer shall not take any action to displace a covered employee or partially displace a covered employee by reducing hours, wages or employment benefits for the purposes of hiring an individual

for an equivalent position at a rate of compensation that is less than required to be provided to a covered employee under subdivision (1) of this subsection.

(d) The additional compensation provided pursuant to subsection (a) of this section shall be excluded from the amount of remuneration for work paid to the covered employee for purposes of (1) calculating the employee's eligibility for any wage-based benefits offered by the employer, or (2) computing the regular rate at which such covered employee is employed under any provision of the general statutes providing for minimum wages, overtime pay or any other wage-based employment standard or benefit.

(e) If a covered employee entitled to additional compensation under this section dies prior to such compensation, the employer shall pay such additional compensation to the next of kin of the covered employee as a lump sum payment.

Sec. 15. (NEW) (*Effective from passage*) (a) Any employer who fails to apply for a grant pursuant to section 13 of this act and any employer who receives a grant and fails to make a payment of additional compensation or otherwise causes an employee to incur a loss as a result of a violation of any provision of section 14 of this act, shall be subject to the provisions of sections 31-68 and 31-71g of the general statutes, as amended by this act, for failure to make wage payments.

(b) Any employer who takes any action against an employee for invoking any right created by section 14 of this act shall be subject to the provisions of sections 31-69 and 31-69a of the general statutes, as amended by this act.

Sec. 16. (NEW) (*Effective from passage*) All actions required under section 14 of this act of consumers, as defined in section 17b-706 of the general statutes, shall be undertaken by fiscal intermediaries who shall be solely responsible for any penalties otherwise applicable to such consumers under this section, section 15 of this act and sections 31-68, 31-69, 31-69a and 31-71g of the general statutes, as amended by this act.

The Department of Social Services and the Department of Developmental Services may apply to the Essential Employees Pandemic Pay Grant Program for such funds as shall be reasonably required to compensate fiscal intermediaries for compliance with sections 12 to 16, inclusive, of this act.

Sec. 17. Section 31-71g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

Any employer or any officer or agent of an employer or any other person authorized by an employer to pay wages who violates any provision of this part or intentionally violates any provision of subsection (a) of section 14 of this act: (1) Shall be guilty of a class D felony, except that such employer, officer or agent shall be fined not less than two thousand nor more than five thousand dollars for each offense if the total amount of all unpaid wages owed to an employee is more than two thousand dollars; (2) may be fined not less than one thousand nor more than two thousand dollars or imprisoned not more than one year, or both, for each offense if the total amount of all unpaid wages owed to an employee is more than one thousand dollars but not more than two thousand dollars; (3) may be fined not less than five hundred nor more than one thousand dollars or imprisoned not more than six months, or both, for each offense if the total amount of all unpaid wages owed to an employee is more than five hundred but not more than one thousand dollars; or (4) may be fined not less than two hundred nor more than five hundred dollars or imprisoned not more than three months, or both, for each offense if the total amount of all unpaid wages owed to an employee is five hundred dollars or less.

Sec. 18. Subsection (a) of section 31-69 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) Any employer or his agent, or the officer or agent of any corporation, who discharges or in any other manner discriminates against any employee because such employee has testified or is about to testify in any investigation or proceeding under or related to this part or

section 14 of this act, or because such employer believes that such employee may testify in any investigation or proceeding under this part, shall be fined not less than one hundred dollars nor more than four hundred dollars.

Sec. 19. Section 31-69a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) In addition to the penalties provided in this chapter and chapter 568, any employer, officer, agent or other person who violates any provision of this chapter, chapter 557 or subsection (g) of section 31-288, or who intentionally violates any provision of section 14 of this act, shall be liable to the Labor Department for a civil penalty of three hundred dollars for each such violation, **[**of said chapters and for each violation of subsection (g) of section 31-288,**]** except that (1) any person who violates (A) a stop work order issued pursuant to subsection (c) of section 31-76a shall be liable to the Labor Department for a civil penalty of one thousand dollars and each day of such violation shall constitute a separate offense, and (B) any provision of section 31-12, 31-13 or 31-14, subsection (a) of section 31-15 or section 31-18, 31-23 or 31-24 shall be liable to the Labor Department for a civil penalty of six hundred dollars for each violation of said sections, and (2) a violation of subsection (g) of section 31-288 shall constitute a separate offense for each day of such violation.

(b) Any employer, officer, agent or other person who violates any provision of chapter 563a may be liable to the Labor Department for a civil penalty of not greater than five hundred dollars for the first violation of chapter 563a related to an individual employee or former employee, and for each subsequent violation of said chapter related to such individual employee or former employee, may be liable to the Labor Department for a civil penalty of not greater than one thousand dollars. In setting a civil penalty for any violation in a particular case, the Labor Commissioner shall consider all factors which the commissioner deems relevant, including, but not limited to, (1) the level of assessment necessary to insure immediate and continued compliance

with the provisions of chapter 563a; (2) the character and degree of impact of the violation; and (3) any prior violations of such employer of chapter 563a.

(c) The Attorney General, upon complaint of the Labor Commissioner, shall institute civil actions to recover the penalties provided for under subsections (a) and (b) of this section. Any amount recovered shall be deposited in the General Fund and credited to a separate nonlapsing appropriation to the Labor Department, for other current expenses, and may be used by the Labor Department to enforce the provisions of chapter 557, chapter 563a, this chapter, **[**and**]** subsection (g) of section 31-288 and section 14 of this act, and to implement the provisions of section 31-4.

Sec. 20. (NEW) (*Effective from passage*) As used in this section and sections 21 to 25, inclusive, of this act:

(1) "Child" means a biological, adopted or foster child, stepchild, or legal ward, of an employee, or a child of a person standing in loco parentis to an employee, or an individual to whom the employee stood in loco parentis when the individual was a minor child;

(2) "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease;

(3) "Employee" means an individual engaged in service to an employer in the business of the employer;

(4) "Employer" means any person, firm, business, educational institution, nonprofit organization, corporation, limited liability company or other entity, except that the Personal Care Attendant Workforce Council established under section 17b-706a of the general statutes shall act on behalf of the employer of all personal care attendants, as defined in section 17b-706 of the general statutes. "Employer" does not include the federal government;

(5) "Family member" means (A) the employee's spouse, as defined in section 31-51kk of the general statutes, child, parent, grandparent, grandchild or sibling, whether related to the employee by blood, marriage, adoption or foster care, or (B) an individual related to the employee by blood or affinity whose close association with the employee is the equivalent of those family relationships;

(6) "Parent" means a biological parent, foster parent, adoptive parent, stepparent, parent-in-law of the employee or legal guardian of an employee or an employee's spouse, an individual standing in loco parentis to an employee, or an individual who stood in loco parentis to the employee when the employee was a minor child; and

(7) "Retaliatory personnel action" means any termination, suspension, constructive discharge, demotion, unfavorable reassignment, refusal to promote, reduction of hours, disciplinary action or other adverse employment action taken by an employer against an employee.

Sec. 21. (NEW) (*Effective from passage*) (a) (1) Each employer shall provide to each of its employees COVID-19 sick leave in addition to any paid sick leave provided by the employer pursuant to section 31-57s of the general statutes, as amended by this act. The COVID-19 sick leave shall be (A) in the amount of eighty hours for each employee who regularly works forty or more hours per week, or (B) equal to the amount of hours the employee is regularly scheduled to work or works in a two-week period, whichever is greater, for each employee who regularly works less than forty hours per week.

(2) An employee exempt from overtime requirements under 29 USC 213(a)(1), as amended from time to time, shall be assumed to work forty hours per week for purposes of calculating COVID-19 sick leave, unless such employee regularly works less than forty hours per week, in which case the COVID-19 sick leave shall be provided based upon the number of hours regularly worked per week. An employee who regularly works less than forty hours per week, but whose number of work hours varies from week to week, shall be provided COVID-19 sick leave using the

average number of hours per week the employee was scheduled to work in the six-month period immediately preceding the date on which the employee utilizes COVID-19 sick leave, including the hours of any leave taken by the employee, except that if the employee did not work over such period, the average shall be the reasonable expectation of the employee, at the time the employee was hired, of the average number of hours per week the employee would be regularly scheduled to work.

(b) COVID-19 sick leave shall be provided one time to each employee and shall be immediately available for use for any of the purposes described in subsection (c) of this section beginning on the effective date of this section, regardless of how long such employee has been employed by the employer. An employee shall be entitled to use COVID-19 sick leave retroactively starting on March 10, 2020, until four weeks after the expiration of the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, or any extension of such declarations.

(c) An employee shall be entitled to take COVID-19 sick leave when the employee is unable to perform the functions of the job of such employee, including through telework, due to any of the following reasons related to COVID-19:

(1) The employee's need to: (A) Self-isolate and care for oneself because the employee has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19; (B) seek preventive care concerning COVID-19; or (C) seek or obtain medical diagnosis, care or treatment if experiencing symptoms of COVID-19;

(2) The employee's need to comply with an order or determination to self-isolate, on the basis that the employee's physical presence on the job or in the community would jeopardize the employee's health, the health of other employees or the health of an individual in the employee's household because of: (A) Possible exposure to COVID-19; or (B) the exhibition of symptoms of COVID-19, regardless of whether the employee has been diagnosed with COVID-19;

(3) The employee's need to care for a family member who is: (A) Self-isolating, seeking preventive care or seeking or obtaining medical diagnosis, care or treatment for the purposes described in subdivision (1) of this subsection; or (B) self-isolating due to an order or determination as described in subdivision (2) of this subsection;

(4) The employee's inability to work or telework because the employee is: (A) Prohibited from working by the employer due to health concerns related to the potential transmission of COVID-19; or (B) subject to an individual or general local, state or federal quarantine or isolation order, including a shelter-in-place or stay-at-home order, related to COVID-19;

(5) The employee's need to care for a family member when the care provider of such family member is unavailable due to COVID-19 or if the family member's school or place of care has been closed by a local, state or federal public official or at the discretion of the school or place of care, due to COVID-19, including if a school or place of care: (A) Is physically closed but providing virtual learning instruction; (B) requires or makes optional virtual learning instruction; or (C) requires or makes available a hybrid of in-person and virtual learning instruction models; or

(6) The employee's inability to work because the employee has a health condition that may increase susceptibility to or risk of COVID-19, including, but not limited to, age, heart disease, asthma, lung disease, diabetes, kidney disease or a weakened immune system.

(d) An order or determination pursuant to subdivision (2) of subsection (c) of this section or subparagraph (B) of subdivision (3) of subsection (c) of this section shall be made by a local, state or federal public official, a health authority having jurisdiction, a health care provider or the employer of the employee or the employee's family member. Such order or determination need not be specific to such employee or family member.

(e) Each employer shall pay each employee for COVID-19 sick leave

at a pay rate equal to the greater of (1) the normal hourly wage for that employee, or (2) the minimum fair wage rate under section 31-58 of the general statutes in effect for the pay period during which the employee used COVID-19 sick leave. For any employee whose hourly wage varies depending on the work performed by the employee, "normal hourly wage" means the average hourly wage of the employee in the pay period prior to the one in which the employee uses COVID-19 sick leave.

(f) The employee shall provide advance notice to the employer of the need for COVID-19 sick leave as soon as practicable only when the need for COVID-19 sick leave is foreseeable and the employer's place of business has not been closed.

(g) Notwithstanding any provision of sections 20 to 25, inclusive, of this act, no documentation from an employee shall be required by an employer for COVID-19 sick leave.

(h) If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee shall retain and be entitled to use all COVID-19 sick leave the employee accrued or received in accordance with the provisions of sections 20 to 25, inclusive, of this act, at the prior division, entity or location. If a different employer succeeds or takes the place of an existing employer, each employee of the original employer who remains employed by the successor employer shall retain and be entitled to use all COVID-19 sick leave the employee accrued or received in accordance with the provisions of sections 20 to 25, inclusive, of this act, while employed by the original employer.

(i) An employer shall not require, as a condition of an employee's taking COVID-19 sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is using COVID-19 sick leave.

Sec. 22. (NEW) (*Effective from passage*) (a) Nothing in sections 20 to 25, inclusive, of this act shall be construed to: (1) Discourage or prohibit an employer from the adoption or retention of a COVID-19 sick leave, paid

sick leave or other paid leave policy more generous than the one required pursuant to section 21 of this act, including providing more leave than required under said section; (2) diminish any rights provided to any employee under a collective bargaining agreement; or (3) prohibit an employer from establishing a policy whereby an employee may donate unused COVID-19 sick leave to another employee.

(b) An employee may first use the COVID-19 sick leave provided under section 21 of this act prior to using sick leave under section 31-57t of the general statutes, as amended by this act. An employer may not require an employee to use other paid leave provided by the employer to the employee before the employee uses the COVID-19 sick leave.

Sec. 23. (NEW) (*Effective from passage*) (a) It shall be unlawful for an employer or any other person to interfere with, restrain or deny the exercise of, or the attempt to exercise, any right protected under sections 20 to 25, inclusive, of this act. No employer shall take retaliatory personnel action or discriminate against an employee because the employee (1) requests or uses COVID-19 sick leave in accordance with the provisions of sections 20 to 25, inclusive, of this act, or (2) files a complaint with the Labor Commissioner alleging the employer's violation of any provision of said sections.

(b) The Labor Commissioner shall advise any employee who (1) is covered by a collective bargaining agreement that provides for COVID-19 sick leave, and (2) files a complaint pursuant to subsection (a) of this section of the employee's right to pursue a grievance with his or her collective bargaining agent.

(c) Any employee aggrieved by a violation of any provision of sections 20 to 25, inclusive, of this act, may file a complaint with the Labor Commissioner. Upon receipt of any such complaint, the Labor Commissioner may hold a hearing. After the hearing, any employer who is found by the Labor Commissioner, by a preponderance of the evidence, to have violated any provision of this section shall be liable to the Labor Department for a civil penalty in an amount consistent with the penalties provided in section 31-57v of the general statutes, as

amended by this act. The Labor Commissioner may award the employee appropriate relief consistent with the provisions of section 31-57v of the general statutes, as amended by this act. Any party aggrieved by the decision of the Labor Commissioner may appeal the decision to the Superior Court in accordance with the provisions of section 4-183 of the general statutes.

(d) Any person aggrieved by a violation of any provision of sections 20 to 25, inclusive, of this act, the Labor Commissioner, the Attorney General or any entity a member of which is aggrieved by a violation of any provision of sections 20 to 25, inclusive, of this act, may bring a civil action in a court of competent jurisdiction against the employer violating said sections. Such action may be brought by a person aggrieved by a violation of this section without first filing an administrative complaint.

(e) The Labor Commissioner shall administer this section within available appropriations.

Sec. 24. (NEW) (*Effective from passage*) (a) Each employer subject to the provisions of sections 20 to 25, inclusive, of this act shall, at the time of hiring or not later than fourteen days after the effective date of this section, whichever is later, provide written notice to each employee (1) of the entitlement to COVID-19 sick leave, the amount of COVID-19 sick leave provided and the terms under which COVID-19 sick leave may be used, (2) that retaliatory personnel actions by the employer are prohibited, and (3) of the right to file a complaint with the Labor Commissioner or file a civil action for any violation of sections 20 to 25, inclusive, of this act. Each employer shall also display a poster in a conspicuous place, accessible to employees, at the employer's place of business that contains the information required by this section in both English and Spanish provided in cases where the employer does not maintain a physical workplace, or an employee teleworks or performs work through a web-based or application-based platform, notification shall be sent via electronic communication or a conspicuous posting in the web-based or application-based platform. The Labor Commissioner

shall provide such posters and model written notices to all employers. Additionally, employers shall include in the record of hours worked, wages earned and deductions required by section 31-13a of the general statutes, the number of hours, if any, of COVID-19 sick leave received by each employee, as well as any use of COVID-19 sick leave in the calendar year.

(b) Employers shall retain records documenting hours worked by employees and COVID-19 sick leave taken by employees, for a period of three years, and shall allow the Labor Commissioner access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this section. When an issue arises as to an employee's entitlement to COVID-19 sick leave under this section, if the employer does not maintain or retain adequate records documenting hours worked by the employee and COVID-19 sick leave taken by the employee, or does not allow reasonable access to such records, it shall be presumed that the employer has violated this section absent clear and convincing evidence otherwise.

(c) The Labor Commissioner may coordinate implementation and enforcement of sections 20 to 25, inclusive, of this act and shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, for such purposes.

(d) The Labor Commissioner may develop and implement a multilingual outreach program to inform employees, parents and persons who are under the care of a health care provider about the availability of COVID-19 sick leave. This program may include the development of notices and other written materials in English and in other languages. The Labor Commissioner shall administer this section within available appropriations.

Sec. 25. (NEW) (*Effective from passage*) Unless required by law, an employer shall not require disclosure of the details of an employee's or an employee's family member's health information as a condition for providing COVID-19 sick leave under sections 20 to 25, inclusive, of this act. If an employer possesses health information about an employee or

an employee's family member, such information shall be treated as confidential and not disclosed except to such employee or with the permission of such employee.

Sec. 26. Subsection (a) of section 31-225a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(a) As used in this chapter: **[**, "qualified employer"**]**

(1) "Qualified employer" means each employer subject to this chapter whose experience record has been chargeable with benefits for at least one full experience year, with the exception of employers subject to a flat entry rate of contributions as provided under subsection (d) of this section, employers subject to the maximum contribution rate under subsection (c) of section 31-273, and reimbursing employers; **[**"contributing employer"**]**

(2) "Contributing employer" means an employer who is assigned a percentage rate of contribution under the provisions of this section; **[**"reimbursing employer"**]**

(3) "Reimbursing employer" means an employer liable for payments in lieu of contributions as provided under section 31-225; **[**"benefit charges"**]**

(4) "Benefit charges" means the amount of benefit payments charged to an employer's experience account under this section; **[**"computation date"**]**

(5) "Computation date" means June thirtieth of the year preceding the tax year for which the contribution rates are computed; **[**"tax year"**]**

(6) "Tax year" means the calendar year immediately following the computation date; **[**"experience year"**]**

(7) "Experience year" means the twelve consecutive months ending on June thirtieth; **[**and "experience period"**]**

(8) "Experience period" means the three consecutive experience years ending on the computation date, except that (A) if the employer's account has been chargeable with benefits for less than three years, the experience period shall consist of the greater of one or two consecutive experience years ending on the computation date, **[**.**]** and (B) to the extent allowed by federal law and as necessary to respond to the spread of COVID-19, for any taxable year commencing on or after January 1, 2022, the experience period shall be calculated without regard to benefit charges and taxable wages for the experience years ending June 30, 2020, and June 30, 2021, when applicable; and

(9) "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease.

Sec. 27. Subsection (d) of section 31-225a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2021*):

(d) The standard rate of contributions shall be five and four-tenths per cent. Each employer who has not been chargeable with benefits, for a sufficient period of time to have his or her rate computed under this section shall pay contributions at a rate that is the higher of (1) one per cent, or (2) the state's five-year benefit cost rate. For purposes of this subsection, the state's five-year benefit cost rate shall be computed annually on or before June thirtieth and shall be derived by dividing the total dollar amount of benefits paid to claimants under this chapter during the five consecutive calendar years immediately preceding the computation date by the five-year payroll during the same period, except that, to the extent allowed by federal law and as necessary to respond to the spread of COVID-19, for any taxable year commencing on or after January 1, 2022, the state's five-year benefit cost rate shall be calculated without regard to benefit payments and taxable wages for calendar years 2020 and 2021, when applicable. If the resulting quotient is not an exact multiple of one-tenth of one per cent, the five-year benefit

cost rate shall be the next higher such multiple.

Sec. 28. (NEW) (*Effective from passage*) (a) Notwithstanding any provision of chapter 567 of the general statutes, during the weeks commencing July 26, 2020, and ending on September 5, 2020, individuals who were eligible for a weekly benefit amount of less than one hundred dollars pursuant to the provisions of said chapter and who did not exhaust their state regular unemployment benefits by July 26, 2020, shall have their weekly benefit amount raised to one hundred dollars and such individuals shall be permitted to apply for lost wages assistance.

(b) Notwithstanding any provision of chapter 567 of the general statutes, if an additional federal benefit program is established for which the eligibility of an individual requires a minimum weekly benefit pursuant to the provisions of said chapter, individuals who are eligible for a weekly benefit amount of less than such required minimum weekly benefit and who have not exhausted their state regular unemployment benefits shall have their weekly benefit amount raised to the minimum amount required for eligibility for such additional federal benefit program, and such individuals shall be permitted to apply for such additional federal benefit program. As used in this subsection, (1) "additional federal benefit program" means a program enacted in federal law that provides benefits for unemployment caused by or related to COVID-19 or the public health and civil preparedness emergencies declared by the Governor on March 10, 2020, or any extension of such emergency declarations, and for which there is one hundred per cent federal funding, and (2) "COVID-19" means the respiratory disease designated by the World Health Organization on February 11, 2020, as coronavirus 2019, and any related mutation thereof recognized by the World Health Organization as a communicable respiratory disease.

(c) With respect to employers who make payments in lieu of contributions pursuant to section 31-225 of the general statutes, for individuals who are affected by subsection (a) or (b) of this section, the

amount otherwise due from the employer in lieu of contributions shall be reduced by an amount equal to the difference between the individual's weekly benefit amount to be paid pursuant to subsections (a) or (b) of this section and the weekly benefit amount which was or would have been calculated pursuant to chapter 567 of the general statutes prior to the adjustment to the weekly benefit amount required by subsections (a) or (b) of this section.

(d) The Labor Commissioner may issue any implementing orders the commissioner deems necessary to effectuate the provisions of this section.

Sec. 29. Subsection (f) of section 31-273 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(f) Any person who knowingly makes a false statement or representation or fails to disclose a material fact in order to obtain, increase, prevent or decrease any benefit, contribution or other payment under this chapter, or under any similar law of another state or of the United States in regard to which this state acted as agent pursuant to an agreement authorized by section 31-225, whether to be made to or by himself or herself or any other person, and who receives any such benefit, pays any such contribution or alters any such payment to his or her advantage by such fraudulent means (1) shall be guilty of a class A misdemeanor if such benefit, contribution or payment amounts to **[**five hundred**]** two thousand dollars or less, or (2) shall be guilty of a class D felony if such benefit, contribution or payment amounts to more than **[**five hundred**]** two thousand dollars. Notwithstanding the provisions of section 54-193, no person shall be prosecuted for a violation of the provisions of this subsection committed on or after October 1, 1977, except within five years next after such violation has been committed.

Sec. 30. (NEW) (*Effective from passage*) Each contracting authority acting pursuant to section 31-53 of the general statutes shall consider the use of a project labor agreement pursuant to section 31-56b of the general statutes for state contracts valued at ten million dollars or more.

Each contractor who bids on such a state contract shall (1) be prequalified under section 4a-100 of the general statutes to perform the work required by the contractor under the contract, (2) be enrolled in the apprenticeship program pursuant to section 31-22m of the general statutes, and (3) if awarded the contract, complete the work required under the contract using its own employees and shall pay such employees not less than the wages described in section 31-53 of the general statutes.

Sec. 31. (NEW) (*Effective October 1, 2021*) (a) As used in this section:

(1) "Nurse" means an advanced practice registered nurse, registered nurse or licensed practical nurse;

(2) "Advanced practice registered nurse" means an advanced practice registered nurse licensed pursuant to chapter 378 of the general statutes;

(3) "Registered nurse" means a registered nurse licensed pursuant to chapter 378 of the general statutes;

(4) "Licensed practical nurse" means a practical nurse licensed pursuant to chapter 378 of the general statutes;

(5) "Nurse's aide" means a nurse's aide registered pursuant to chapter 378a of the general statutes;

(6) "Hospital" means any short-term acute care general or children's hospital licensed by the Department of Public Health, including the John Dempsey Hospital of The University of Connecticut Health Center;

(7) "Direct patient care" means any care of a patient that is provided personally by a hospital staff member and includes, but is not limited to, treatment, counseling, self-care and the administration of medication; and

(8) "Nursing unit" means a unit or floor in a hospital.

(b) Each hospital shall calculate for each nursing unit, on a per shift basis, the total number of nurses and nurse's aides providing direct

patient care to patients of the hospital. Each hospital shall post in each nursing unit, at the beginning of each shift, a clear and conspicuous notice readily accessible to and clearly visible by patients, employees and visitors of the hospital, including, but not limited to, persons in a wheelchair, containing the following information:

(1) The name of the hospital;

(2) The date;

(3) The total number of (A) advanced practice registered nurses, (B) registered nurses, (C) licensed practical nurses, and (D) nurse's aides, who will be responsible for direct patient care during the shift, and the total number of hours each such nurse or nurse's aide is scheduled to work during the shift; and

(4) The total number of patients in the nursing unit.

(c) In addition to the information posted pursuant to subsection (b) of this section, each hospital shall post at the beginning of each shift a clear and conspicuous notice readily accessible to and clearly visible by patients, employees and visitors of the hospital, including, but not limited to, persons in a wheelchair, containing the following information:

(1) The hospital's staffing matrix for the nursing unit; and

(2) The telephone number or Internet web site that a patient, employee or visitor of the hospital may use to report a suspected violation by the hospital of a regulatory requirement concerning staffing levels and direct patient care.

(d) Each hospital shall, upon oral or written request, make the information posted pursuant to subsections (b) and (c) of this section available to the public for review. The hospital shall retain such information for not less than eighteen months from the date such information was posted.

(e) No hospital shall discharge or in any manner discriminate or retaliate against any employee of any hospital or against any other person because such employee or person reported a suspected violation by the hospital of a regulatory requirement concerning staffing levels and direct patient care. Notwithstanding any other provision of the general statutes, any hospital that violates any provision of this subsection shall (1) be liable to such employee or person for treble damages, and (2) reinstate the employee, if the employee was terminated from employment. For purposes of this subsection, "discriminate or retaliate" includes, but is not limited to, discharge, demotion, suspension or any other detrimental change in terms or conditions of employment or the threat of any such action.

Sec. 32. Section 31-68 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) If any employee is paid by his or her employer less than the minimum fair wage or overtime wage to which he or she is entitled under sections 31-58, 31-59 and 31-60 or by virtue of a minimum fair wage order, or less than the amount of additional compensation to which he or she is entitled under sections 12 to 16, inclusive, of this act, he or she shall recover, in a civil action, (A) twice the full amount of such minimum wage, **[**or**]** overtime wage or additional compensation less any amount actually paid to him or her by the employer, with costs and such reasonable attorney's fees as may be allowed by the court, or (B) if the employer establishes that the employer had a good faith belief that the underpayment of such wages or additional compensation was in compliance with the law, the full amount of such minimum wage, **[**or**]** overtime wage or additional compensation less any amount actually paid to him or her by the employer, with costs and such reasonable attorney's fees as may be allowed by the court.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if any employee is paid by his or her employer less than the minimum fair wage or overtime wage to which he or she is entitled under section 31-62-E4 of the regulations of Connecticut state agencies,

such employee shall recover, in a civil action, (A) twice the full amount of such minimum wage or overtime wage less any amount actually paid to such employee by the employer, with costs and such reasonable attorney's fees as may be allowed by the court, or (B) if the employer establishes that the employer had a good faith belief that the underpayment of such wages was in compliance with the law, the full amount of such minimum wage or overtime wage less any amount actually paid to such employee by the employer, with costs as may be allowed by the court. A good faith belief includes, but is not limited to, reasonable reliance on written guidance from the Labor Department.

(3) Notwithstanding the provisions of section 52-105, no person may be authorized by a court to sue for the benefit of other alleged similarly situated persons in a case brought for violations of section 31-62-E4 of the regulations of Connecticut state agencies, unless such person, in addition to satisfying any judicial rules of practice governing class action certifications, demonstrates to the court, under the appropriate burden of proof, that the defendant is liable to all individual proposed class members because all such members (A) performed nonservice duties while employed by the defendant, for more than a de minimis amount of time, that were not incidental to service duties, and (B) were not properly compensated by the defendant for some portion of their nonservice duties in accordance with section 31-62-E4 of the regulations of Connecticut state agencies.

(4) Any agreement between an employee and his or her employer to work for less than such minimum fair wage or overtime wage or for less than the amount of additional compensation owned to the employee pursuant to sections 12 to 16, inclusive, of this act shall be no defense to such action as described in this section. The commissioner may collect the full amount of unpaid minimum fair wages, **[**or**]** unpaid overtime wages or unpaid additional compensation to which an employee is entitled under said sections or order, as well as interest calculated in accordance with the provisions of section 31-265 from the date the wages or additional compensation should have been received, had they been paid in a timely manner. In addition, the commissioner may bring

any legal action necessary to recover twice the full amount of the unpaid minimum fair wages, [or] unpaid overtime wages or unpaid additional compensation to which the employee is entitled under said sections or under an order, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court. The commissioner shall distribute any wages, additional compensation or interest collected pursuant to this section to the employee or in accordance with the provisions of subsection (b) of this section.

(b) All wages and additional compensation collected by the commissioner for an employee whose whereabouts are unknown to the commissioner shall be held by the commissioner for three months and thereafter the commissioner may, in his discretion, pay the same, on application, to the husband or wife or, if none, to the next of kin of such employee. As a condition of such payment, the commissioner or his authorized representative shall require proof of the relationship of the claimant and the execution of a bond of indemnity and a receipt for such payment. Notwithstanding the provisions of section 3-60b, any such wages or additional compensation held by the commissioner for two years without being claimed shall escheat to the state, subject to the provisions of sections 3-66a to 3-71a, inclusive.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	31-290a
Sec. 2	*from passage*	New section
Sec. 3	*from passage*	New section
Sec. 4	*from passage*	31-306(a)
Sec. 5	*from passage*	31-275(16)
Sec. 6	*from passage*	31-294k
Sec. 7	*from passage*	New section
Sec. 8	*from passage*	New section
Sec. 9	*from passage*	New section
Sec. 10	*from passage*	New section
Sec. 11	*from passage*	New section
Sec. 12	*from passage*	New section
Sec. 13	*from passage*	New section

Sec. 14	*from passage*	New section
Sec. 15	*from passage*	New section
Sec. 16	*from passage*	New section
Sec. 17	*October 1, 2021*	31-71g
Sec. 18	*October 1, 2021*	31-69(a)
Sec. 19	*October 1, 2021*	31-69a
Sec. 20	*from passage*	New section
Sec. 21	*from passage*	New section
Sec. 22	*from passage*	New section
Sec. 23	*from passage*	New section
Sec. 24	*from passage*	New section
Sec. 25	*from passage*	New section
Sec. 26	*October 1, 2021*	31-225a(a)
Sec. 27	*October 1, 2021*	31-225a(d)
Sec. 28	*from passage*	New section
Sec. 29	*from passage*	31-273(f)
Sec. 30	*from passage*	New section
Sec. 31	*October 1, 2021*	New section
Sec. 32	*from passage*	31-68

Statement of Legislative Commissioners:

In Section 3(d), "It is further understood that the reapportioning" was changed to "The reapportionment" for consistency with standard drafting conventions; in Section 7(b), "notice of" was added before "all" for accuracy; in Section 7(c), "subdivision (4) of" was added before "subsection" for accuracy; Section 7(j)(2) was rewritten for clarity; in Section 7(k), "recall" was changed to "rehiring laid-off employees" for consistency and accuracy; in Section 12, "Centers for Disease Control and Prevention's" was added before "Advisory Committee" for clarity; in Section 20, a definition of "COVID-19" was added for clarity and consistency and the definition of "employer" was rewritten for clarity; in Section 21(a)(1), "and 31-57t" was deleted for accuracy; Section 21(b) was rewritten for accuracy and clarity; Section 21(h) was rewritten for clarity and conciseness; in Section 24(a) the last sentence was deleted to avoid redundancy; Section 24(c) was rewritten for consistency with standard drafting conventions and in Section 27(d), "provided" was changed to "except that" for accuracy.

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 $	FY 23 $
Labor Dept.	GF- Cost	287,942	319,529
Public Health, Dept.; Social Services, Dept.; Department of Developmental Services	GF – Cost	See Below	See Below
State Comptroller – Fringe Benefits[1]	GF – Cost	114,955	127,588
Various State Agencies	GF - Potential Cost	See Below	See Below
Social Services, Dept.; Department of Developmental Services	GF – Potential Revenue Loss	See Below	See Below
Correction, Dept; Judicial Dept. (Probation)	GF – See Below	See Below	See Below
Resources of the General Fund	GF – See Below	See Below	See Below

Note: UCF = Unemployment Compensation Fund; GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 22 $	FY 23 $
Various Municipalities	STATE MANDATE[2] - Potential Cost	See Below	See Below

Explanation

Section 3 and **Section 4** establish a $20,000 workers' compensation benefit for burial expenses and increase the current standard benefit

[1]The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.3% of payroll in FY 22 and FY 23.

[2] State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

from $4,000 to $20,000 once the bill passes and includes a rebuttable presumption provision related to COVID-19. This results in a potential cost to various state agencies and municipalities to the extent that an employee contracts COVID-19 and meets the other conditions of the bill.

Section 5 and **Section 6** of the bill expand eligibility for workers' compensation benefits for post-traumatic stress injuries (PTSI) to cover (1) emergency medical services (EMS) personnel; (2) all Department of Correction (DOC) employees; (3) telecommunicators; and (4) under certain circumstances related to COVID-19, health care providers.

The bill results in a potential cost to the Department of Corrections (DOC) to the extent that DOC employees apply for Workers' Compensation benefits and meet the conditions of the bill. For reference, there are 6,000 current DOC employees. The bill also results in a potential cost to other various state agencies and various municipalities who employ EMS personnel, telecommunicators, and health care providers to the extent that these employees apply for Workers' Compensation benefits due to PTSI and COVID-19 related conditions and meet the other conditions of the bill.

Section 7 allows terminated employees to bring an action in Superior Court over alleged violations, which does not result in any fiscal impact to the state or municipalities. The court system disposes of over 400,000 cases annually and the number of cases is not anticipated to be great enough to need additional resources.

Section 8 results in a cost to the Department of Public Health (DPH) to administer a contract(s) for the procurement of personal protective equipment (PPE) to create two stockpiles over time. The bill requires DPH to (1) pay for PPE with federal public health emergency funds, to the maximum extent feasible, (2) make PPE available, without charge, to certain entities during a declaration of a public health emergency, and (3) make PPE (within one year of its expiration) available for sale at no more than fair market value.

This is anticipated to result in a cost of approximately $55,560 in FY

22 and $57,230 in FY 23 (with associated fringe of $22,950 and $23,640, respectively) to support staff to oversee the contract. The cost to purchase PPE and resupply prior to expiration is estimated to be at least $2 million annually, which may be paid for with federal funds. The actual cost depends on the contract established and the stockpile levels determined by DPH.

Section 10 could result in a revenue gain, beginning in FY 24, associated with a $25,000 civil penalty imposed on covered providers who do not maintain an unexpired inventory of PPE required under the bill.

Section 13 results in a cost to the Department of Social Services (DSS) to administer the Essential Employees Pandemic Pay Grant Program. Grants will support employers whose covered employees were engaged in activities substantially dedicated to mitigating or responding to the public health and civil preparedness emergencies between March 20, 2020, and April 30, 2021. This is assumed to include the state and municipalities.

The grant program will be funded by an appropriation of at least 15% of unrestricted funds received by the state from January 1, 2021, to July 1, 2021, for COVID-19 relief. Based on current estimates, 15% of anticipated federal State Fiscal Recovery funds is $397.5 million. Assuming standard administrative costs of 3.2%, DSS would incur increased costs of $12.7 million in FY 22 to support a contract to administer the grant program including application review and post payment audits. The actual cost to administer the program will depend on the number of applicants and associated employees, established grant review process, and payment distribution requirements.

Section 14 requires each employer that receives a pandemic pay grant to pay (via lump sum) each of its covered employees additional compensation for each hour they worked during the covered period. This could result in increased costs to the state and municipalities to administer such payments to employees.

Sections 15 and 17 subject employers to penalties if they violate conditions of the bill resulting in in a potential cost for incarceration or probation and a potential revenue gain from fines to the extent violations occur. On average, the marginal cost to the state for incarcerating an offender for the year is $2,200[3] while the average marginal cost for supervision in the community is less than $700[4] each year.

Sections 20-25, which require all private-sector employers to provide additional paid sick leave related to COVID-19, result in: 1) a potential cost to the Departments of Social Services and Developmental Services, 2) a potential cost to the Department of Labor (DOL) of up to $402,897 in FY 22 and up to $447,117 in FY 23, and 3) a potential loss of federal revenue.

Establishing new COVID-19 paid sick leave results in a potential cost to the DOL to administer.[5] Specifically, the DOL could need up to two additional Wage Enforcement Agents and one Staff Attorney for a total potential cost of up to $393,297 in FY 22 and up to $436,517 in FY 23, including salaries and benefits. There are also associated overhead costs estimated at up to $9,600 for FY 22 and up to $10,600 for FY 23 for computers, office supplies, etc. These costs would cease four weeks after the governor's emergency declarations expire (thus, they are potential costs for FY 22 and FY 23).

Sections 20-25 could result in a cost to the Departments of Social

[3] Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

[4] Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

[5] The current paid sick leave law covers employers with over 50 employees (excluding manufacturers and some non-profits) and only applies to 69 job classifications. The bill expands COVID-19-specific coverage to all private-sector employers for the duration of the pandemic, which includes an estimated 110,000 employers and 1.6 million workers.

Services (DSS) and Developmental Services (DDS) associated with paid sick leave for personal care attendants (PCAs). Cost components include (1) payment to PCAs for sick leave, (2) payment to PCAs to provide necessary services to Medicaid consumers while another PCA is taking sick leave, and (3) enhanced contract costs for the PCA Workforce Council to administer paid sick leave benefits.

There are approximately 13,000 active PCAs supporting DSS and DDS Medicaid consumers paid a rate of approximately $16.25 per hour. The extent of the cost to the state depends on the number of PCAs requiring paid sick leave related to COVID-19 and the length of sick leave, up to eighty hours.

These sections also require the PCA Workforce Council to act on behalf of consumer employers of PCAs for purposes of the bill. This is anticipated to increase state contract costs to support the administration of paid sick leave benefits through fiscal intermediaries.

Additionally, since most DSS and DDS consumers with funding for PCAs are enrolled in a Home and Community-Based Medicaid waiver, the bill may also result in a potential federal revenue loss to the extent the bill's provisions conflict with Medicaid waiver requirements.

Sections 26 and 27 disregard an employer's benefit charges and taxable wages between July 1, 2019, and June 30, 2021, when calculating the employer's unemployment tax experience rate for taxable years starting on or after January 1, 2022. This does not result in any fiscal impact as costs not directly charged to a specific employer will be handled as pooled costs spread among all employers.

Section 28 increases unemployment benefits for certain claimants. This does not result in any fiscal impact as costs not directly charged to a specific employer will be handled as pooled costs spread among all employers.

Section 29 increases, from $500 to $2,000, the financial threshold used to determine whether someone's unemployment compensation fraud is

a misdemeanor or a felony. This is not anticipated to have a material impact on the Unemployment Insurance Trust Fund. It results in a potential savings for incarceration or probation and a potential revenue loss to the extent fewer fines are collected and fewer violations result in incarceration or probation.

The Out Years

Beginning January 1, 2022, the standard benefit for burial expenses will be annually adjusted by the previous calendar year's percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers in the Northeast.

OLR Bill Analysis

sSB 1002

AN ACT CONCERNING LABOR ISSUES RELATED TO COVID-19, PERSONAL PROTECTIVE EQUIPMENT AND OTHER STAFFING MATTERS.

TABLE OF CONTENTS:

Requires DEMHS to establish a process to evaluate, distribute, and approve PPE for use during public health emergencies

SUMMARY

This bill contains numerous provisions generally related to the impact of COVID-19 on employment and workplace-related issues.

Among other things, the bill generally:

1. establishes the conditions under which employees who died or were unable to work due to contracting COVID-19 must be presumed to have contracted it in the course of their employment (making them eligible for workers' compensation benefits);

2. expands eligibility for workers' compensation benefits for post-traumatic stress injuries to include emergency medical services personnel; Department of Correction employees; 9-1-1 emergency dispatchers; and, under certain circumstances related to COVID-19, health care providers;

3. requires employers to offer available jobs to certain laid-off employees who (1) held the same or similar position when they were most recently separated from service with the employer or (2) can be qualified for the position with the same training as a new employee;

4. requires the Department of Public Health (DPH) commissioner to procure two stockpiles of personal protective equipment (PPE) and establishes priorities for stockpile use during a public health emergency;

5. requires health care providers and long-term care providers to maintain enough new PPE for 90 days of surge consumption during a state of emergency;

6. establishes a grant program and requires employers to apply for grants that they must use to provide additional pandemic pay to their essential employees ($5 per hour) and specialized risk employees ($10 per hour) for their hours worked between March 20, 2020, and April 30, 2021; and

7. requires private-sector employers to provide their employees with up to 80 hours of additional COVID-19 paid sick leave that they can use for certain purposes related to COVID-19.

EFFECTIVE DATE: Upon passage, unless otherwise noted below.

§ 1 — PROHIBITION AGAINST EMPLOYEE DISCIPLINE AND MISINFORMATION FOR WORKERS' COMPENSATION CLAIMS

Prohibits employers from deliberately misinforming employees about or dissuading them from filing a workers' compensation claim

Current law prohibits employers from discharging or discriminating against an employee because the employee filed a workers' compensation claim or exercised his or her rights under the workers' compensation law. The bill expands this protection to also prohibit employers from (1) disciplining employees for filing a claim or exercising their rights or (2) deliberately misinforming or dissuading them from filing a claim. (This codifies Executive Order 7JJJ (2020).)

As under current law, employees subjected to a violation may either bring a lawsuit in Superior Court or file a complaint with the Workers' Compensation Commission.

§ 2 — WORKERS' COMPENSATION NOTICE OF CONTROVERSY

Requires employers or insurers to file a notice of controversy when there is a disputed request for medical or surgical aid or hospital and nursing services

The bill requires an employer or insurer to file a notice of controversy (presumably with a workers' compensation commissioner) when there is a dispute over whether a workers' compensation-related request for medical or surgical aid or hospital and nursing services, including mechanical aids and prescriptions, is reasonable or necessary. The employer or insurer must also send a copy of the notice to the originator of the request.

The bill allows a health care provider, employee, or other interested party to request a hearing about paying for the disputed medical and related services. It also specifies that (1) payment of the medical bill by an employer or insurer is not an admission of the reasonableness of subsequent medical bills and (2) it does not affect other workers' compensation provisions for notices of a claim for compensation or notices contesting liability.

§ 3 — WORKERS' COMPENSATION REBUTTABLE PRESUMPTION FOR COVID-19

Establishes the conditions under which employees must be presumed to have contracted COVID-19 in the course of their employment

Presumption

For adjudicating workers' compensation claims, the bill requires that an employee who died or was unable to work due to contracting COVID-19, or having symptoms later diagnosed as COVID-19, is presumed to have contracted it as an occupational disease arising out of and in the course of employment (making them eligible for workers' compensation benefits) if:

1. the death or lost work occurred during (a) the current COVID-19 public health and civil preparedness emergencies or (b) new ones declared by the governor because of a COVID-19 outbreak in the state;

2. the contraction of COVID-19 is confirmed by a positive lab test or, if one is not available, diagnosed based on the employee's symptoms and documented by a licensed physician, physician assistant, or advanced practice registered nurse;

3. a copy of the test or diagnosis documentation is provided to the employer or insurer; and

4. the employee did not, during the 14 consecutive days immediately before the employee's death or inability to work, (a) work solely from home, with no physical interaction with other employees, or (b) receive an individualized written offer or directive to work solely from home, but otherwise chose to work at the employer's worksite.

The bill specifies that COVID-19 is an occupational disease for those diagnosed with it as described above. In effect, this gives them three years from the first manifestation of a symptom to file a workers' compensation claim (see CGS § 31-294c).

Employer Rebuttal

The bill allows employers or insurers to rebut the presumption if they clearly demonstrate by a preponderance of the evidence that the employee's employment did not directly cause his or her COVID-19. The employer or insurer must provide evidence to rebut the presumption within 10 days after filing a notice to contest the claim.

Under the bill, if the employer successfully rebuts the presumption, a compensation commissioner must still decide the employee's claim on its merits under the established practices of causation (i.e., the employee would have to prove that he or she contracted the disease in the course of employment). The bill additionally specifies that an employee who contracted COVID-19 but does not qualify for the presumption is not precluded from making a general workers' compensation claim.

The bill requires that an employee's pre-existing condition have no bearing on the merits of a claim, both for approving it and continuing benefits that have been awarded. It also specifies that the bill's reapportioning of the levels of the burdens of proof between the parties is a procedural change intended to apply to all existing and future COVID-19 claims.

Report

The bill requires the Workers' Compensation Commission, from July 1, 2021, to January 1, 2023, to provide monthly reports on COVID-19 claims to the Labor and Public Employees and Insurance committees. The reports must include the:

1. number of total COVID-19 workers' compensation claims filed since May 10, 2020;

2. number of record-only (i.e., uncontested) claims filed by hospitals, nursing homes, municipalities, and other employers, listed by employer name;

3. number of COVID-19 workers' compensation cases filed by state employees in each agency;

4. number of these claims contested by each individual employer, including state agencies, third-party administrators, and insurers, by client;

5. reasons cited by each employer, including state agencies, third-party administrators, or insurers, by client, for contesting the claims;

6. number of claims that have had a hearing with the commission;

7. number of (a) commission rulings on appealed claims, (b) approved voluntary agreements, (c) findings and awards, (d) findings and dismissals, (e) petitions for review, and (f) stipulations;

8. average time it took to schedule an initial hearing after one was requested; and

9. average time it took to adjudicate contested COVID-19 workers' compensation claims.

The bill requires employers, including state agencies, third-party administrators, and insurers, to comply with all requests from the Workers' Compensation Commission for information it must include in the reports.

§ 4 — WORKERS' COMPENSATION BURIAL EXPENSES

Establishes a $20,000 benefit for burial expenses for an employee who dies due to contracting COVID-19, and increases the general benefit for burial expenses from $4,000 to $20,000, with future annual adjustments for inflation

The bill establishes a $20,000 workers' compensation benefit for burial expenses in any case in which the employee died due to contracting COVID-19 during the current COVID-19 public health and civil preparedness emergencies or new ones declared by the governor because of a COVID-19 outbreak in the state.

It also increases the current standard benefit for burial expenses from $4,000 to $20,000 once the bill passes. Then, starting on January 1, 2022,

the bill requires the standard benefit to be annually adjusted by the previous calendar year's percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers in the Northeast.

§§ 5 & 6 — WORKERS' COMPENSATION PTSI BENEFITS

Expands eligibility for workers' compensation PTSI benefits to include emergency medical services personnel, DOC employees, 9-1-1 emergency dispatchers, and under certain circumstances related to COVID-19, health care providers

The bill expands eligibility for workers' compensation benefits for post-traumatic stress injuries (PTSI) to cover (1) emergency medical services (EMS) personnel; (2) all Department of Correction (DOC) employees; (3) telecommunicators (i.e., 9-1-1 emergency dispatchers); and (4) under certain circumstances related to COVID-19, health care providers. The bill also changes the terminology used in the underlying law by replacing "post-traumatic stress disorder" (PTSD) with "post-traumatic stress injury."

Current law provides workers' compensation PTSD benefits to police officers, DOC-employed parole officers, and firefighters diagnosed with PTSD as direct result of certain qualifying events (e.g., witnessing someone's death) that occur in the line of duty. The bill allows EMS personnel, DOC employees, and emergency dispatchers to qualify for benefits through the same qualifying events, although the dispatchers may do so by hearing them. Qualifying events for health care providers under the bill are the same types of events, but they must have occurred due to, or as a result of, COVID-19.

The bill also makes technical and conforming changes.

EMS Personnel, Telecommunicators, and Health Care Providers

Under the bill, "emergency medical services personnel" are certified emergency medical responders, emergency medical technicians, advanced emergency medical technicians, EMS instructors, and licensed paramedics.

"Telecommunicators" are individuals engaged in or employed by a public or private safety agency as telecommunications operators (1)

whose primary responsibility is receiving or processing 9-1-1 calls for emergency assistance or dispatching emergency services provided by public safety agencies and (2) who receive or disseminate information relative to emergency assistance by telephone or radio.

"Health care providers" are people employed at a physician's office, hospital, health care center, clinic, medical school, local health department or agency, nursing or retirement facility, nursing home, group home, home health care provider, facility that performs laboratory or medical testing, or pharmacy or any similar institution. They also include people who provide personal care assistance (PCAs) under a state-funded program, such as the Connecticut Home Care Program for Elders.

(Existing workers' compensation law, unchanged by the bill, only covers people who work in or about a private dwelling if they are regularly employed by the dwelling's owner or occupier for more than 26 hours per week (CGS § 31-275(9)(B)(iv)). It is unclear if this 26-hour work threshold would also apply to PCAs under the bill.)

Qualifying Events

Under current law, police officers, parole officers, and firefighters are eligible for workers' compensation PTSD benefits if a mental health professional examines them and diagnoses PTSD as a direct result of a qualifying event in the line of duty.

For EMS, DOC Employees, and Emergency Dispatchers. The bill extends current law's eligibility requirements to EMS personnel, DOC employees, and emergency dispatchers. Thus, their PTSI diagnosis is compensable with workers' compensation benefits if a mental health professional examines them and diagnoses PTSI as a direct result of an event that occurs in the line of duty on or after July 1, 2019, and in which they:

1. view a deceased minor;

2. witness (a) a person's death or an incident involving a person's

death, (b) an injury to a person who subsequently dies before or upon admission to a hospital as a result of the injury and not any other intervening cause, or (c) a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in the victim's permanent disfigurement; or

3. carry, or have physical contact with and treat, an injured person who subsequently dies before or upon admission at a hospital as a result of the injury and not any other intervening cause.

For emergency dispatchers, however, witnessing a "qualifying event" is hearing, by telephone or radio (1) someone's death or an incident involving someone's death; (2) an injury to someone who subsequently dies before or upon admission to a hospital because of the injury; or (3) a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in the victim's permanent disfigurement.

For Health Care Providers. For health care providers under the bill, a qualifying event is an event arising in and out of the course of employment on or after March 10, 2020, in which the provider was engaged in activities substantially dedicated to mitigating or responding to the COVID-19 emergency and:

1. witnessed the death of a person due to COVID-19,

2. witnessed an injury to a person who subsequently died as a result of COVID-19,

3. had physical contact with and treated or provided care for a person who subsequently died as a result of COVID-19, or

4. witnessed a traumatic physical injury that resulted in someone's loss of a vital body function due to COVID-19.

PTSI Benefits and Procedure

Under the bill, the PTSI benefits provided to EMS personnel, DOC employees, emergency dispatchers, and health care providers are

subject to the same limitations and procedures that current law applies to the benefits for firefighters, police, and parole officers. Among other things, this (1) caps the benefits' duration at 52 weeks; (2) prohibits the benefits from being awarded beyond four years after the qualifying event; and (3) requires that employers contest a claim for PTSI benefits through a process that is generally similar to the one used for contesting other workers' compensation claims, although with different deadlines.

§ 7 — EMPLOYEE RECALL RIGHTS

Requires employers to offer available jobs to their laid-off employees who (1) held the same or similar position when they were most recently separated from service with the employer or (2) can be qualified for the position with the same training as a new employee

This bill requires private-sector employers with at least five employees to meet certain requirements related to recalling certain employees laid off between March 10, 2020, and December 31, 2024. Among other things, these employers must notify laid-off employees about available positions for which a laid-off employee is qualified and offer the positions first to those who previously held the same or a similar position, then to those who can qualify for the position with the same training as a new employee.

Covered Employers and Laid-off Employees

An "employer" covered by the bill is any person who conducts an "enterprise" and employs or exercises control over the wages, hours, or working conditions of any employee. It includes corporate officers or executives, acting directly or indirectly, or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity. An "enterprise" is any income-producing economic activity conducted in the state that employs five or more employees.

A "laid-off employee" covered by the bill is an employee (1) employed by an employer for at least six of the twelve months preceding March 10, 2020, and (2) whose most recent separation from active service with, or whose failure to be scheduled for customary seasonal work by, that employer occurred between March 10, 2020, and December 31, 2024, due to a lack of business or a reduction or furlough

of the employer's workforce; the current COVID-19 public health and civil preparedness emergencies; or other economic, non-disciplinary reasons. "Customary seasonal work" is work performed by an employee for approximately the same portion of each calendar year.

Recall Notice and Preference

Notice. The bill requires an employer to send each of its laid-off employees a notice about its available job positions for which the laid-off employee is qualified. Under the bill, laid-off employees are qualified if they (1) held the same or a similar position at the enterprise when they were most recently separated from service with the employer or (2) are or can be qualified for the position with the same training as a new employee hired for the position. The notice must be sent (1) in writing to the laid-off employee's last known physical address and e-mail address and (2) by text message to his or her mobile phone. (The bill does not specify when an employer must send the notices or how often it must do so.)

Recall Order of Preference. The bill requires employers to offer positions to laid-off employees in the same order of preference that they are deemed qualified above: first to those who held the same or a similar position before their separation, then to those who can qualify for the position with the same training as a new employee. If more than one (presumably, laid-off) employee is entitled to preference for a position, the bill requires the employer to offer the position to the (presumably, laid-off) employee with the greatest length of service at the employment site. An employer may offer a position to more than one laid-off employee, with the final offer for the position conditioned upon the same order of preference as described above.

An "employment site" under the bill is the principal physical place where the laid-off employee performed the predominance of his or her duties before being laid off. But for a laid-off employee in construction, transportation, building services, or other industries where work is performed at locations other than the employer's administrative headquarters, it is any location served by the headquarters. An

employee's "length of service" is the total amount of time that the employee was in active service, including the employee's time on leave or vacation.

Job Offers. The bill requires that a job offer to a laid-off employee be in the same classification or job title at substantially the same employment site (which may be relocated within 25 miles), and with substantially the same duties, compensation (including fringe benefits), and working conditions that the employee had immediately before March 10, 2020. (It is unclear how this requirement could apply to a former senior employee (e.g., a manager) who, under the bill, must be offered a position for which he or she could qualify with the same training as a new employee (e.g., a cashier).)

Under the bill, an employer must give a laid-off employee who is offered a position at least 10 days to accept or decline the offer. (The bill does not specify what happens if the employee does not respond within 10 days.) If the employee declines due to his or her age, or due to his or her underlying health conditions (or those of a family member or other person living in his or her household), the employee retains the right to accept the position and all other rights under the bill until the current COVID-19 public health and civil preparedness emergencies, and any extensions of them, expire and the laid-off employee is reoffered the position. The bill requires that a rehired employee be allowed to work for at least 30 days unless there is just cause for their termination.

Hiring Another Person. If an employer does not rehire a laid-off employee due to a lack of qualifications and instead hires someone else, the bill requires the employer to give the laid-off employee a written notice within 30 days after hiring the other person. The notice must identify the other person, the reasons for the decision, and all demographic data the employer has about the other person and the laid-off employee who was not rehired.

Application of Bill Provisions. The bill specifies that its provisions apply if:

1. the employer's owner changed after the laid-off employee was laid off, but the enterprise continues to conduct the same or similar operations as it did before March 10, 2020;

2. the employer's form of organization changed after March 10, 2020;

3. another entity acquired substantially all of the employer's assets, and conducts the same or similar operations using substantially the same assets; or

4. the employer relocates the operations where the laid-off employee worked before March 10, 2020, to a different employment site within 25 miles of the original employment site.

Collective Bargaining Agreements. The bill also requires that its provisions apply to each laid-off employee, regardless of whether he or she is represented for collective bargaining or covered by a collective bargaining agreement. But it specifies that it (1) is not a violation for an employer to follow a recall order of preference required by a collective bargaining agreement that is different from the order of preference required by the bill and (2) does not invalidate or limit the rights, remedies, and procedures of any contract or agreement that provides equal or greater protection for laid-off employees.

The bill also allows its provisions to be waived in a bona fide collective bargaining agreement, but only if the waiver is explicitly set forth in the agreement in clear and unambiguous terms. It specifies that unilateral implementation of terms and conditions of employment by either party to an agreement does not constitute and must not be allowed as a waiver.

Employee Protections and Enforcement

The bill prohibits employers from terminating, refusing to reemploy, reducing compensation, or taking any adverse action against anyone seeking to enforce his or her rights under the bill or for (1) participating in proceedings related to the bill; (2) opposing a violation of it; or (3)

otherwise asserting their rights under it. It requires an employer that does so to give the laid-off employee a detailed written statement of the reason why when it takes these prohibited actions. The statement must include all the facts substantiating the employer's reason or reasons for taking the prohibited action, along with all facts known to the employer that contradict the substantiating facts.

The bill allows a laid-off employee aggrieved by a violation to bring a lawsuit in Superior Court. He or she may also designate an agent or representative to maintain the action on his or her behalf. If the court finds that the employer violated the bill, it may enjoin the employer from engaging in the violation and order appropriate affirmative action (e.g., reinstatement or rehiring, back pay, and benefits) and any other relief it deems appropriate.

If a court orders back pay, the bill requires that the laid-off employee's interim earnings or amounts earnable with reasonable diligence be deducted from the back pay. However, any reasonable amounts that the laid-off employee spent searching for, obtaining, or relocating to new employment must be deducted from the interim earnings before their deduction from the back pay.

Under the bill, the court may also order (1) compensatory and punitive damages if it finds that the employer committed the violation with malice or with reckless indifference to the bill's requirements and (2) treble damages if it finds that the employer terminated the laid-off employee in violation of the bill. It also requires courts to award attorney's fees and costs to a laid-off employee who prevails in a civil action.

§ 8 — PERSONAL PROTECTIVE EQUIPMENT STOCKPILES

Requires the DPH commissioner to procure PPE to create two stockpiles; establishes priorities for stockpile use during a public health emergency

The bill requires the DPH commissioner, within six months after the current COVID-19 public health and civil preparedness emergencies end or the bill passes, whichever is later, to award a contract or contracts for procuring personal protective equipment (PPE) to create two

stockpiles. The commissioner must do this in consultation with the Department of Administrative Services (DAS) and the state Division of Emergency Management and Homeland Security (DEMHS).

Under the bill, "PPE" is clothing or equipment worn by an employee for protection against infectious disease and materials, such as protective equipment for the eyes, face, head, and extremities; protective clothing; and protective shields and barriers.

The bill allows the commissioner to make awards to multiple bidders. It requires her, to the maximum extent feasible, to pay for the PPE with federal public health emergency funds. Each stockpile must be gradually filled to a capacity determined by the commissioner, but at least one-third of the stockpile's capacity must be filled each year until capacity is met. If PPE from the stockpile is used, it must be refilled in a similar manner.

Under the bill, one stockpile must consist of PPE approved for use by a federal agency and one stockpile must consist of PPE approved by DPH, in consultation with DAS and DEMHS. To the maximum extent feasible, 50% of the PPE in each stockpile must be made in Connecticut and 30% of the PPE must be made in the United States.

Stockpile Use

The bill requires the DPH commissioner, during a declared public health emergency, to make the stockpiled PPE available for free to state agencies; political subdivisions (e.g., municipalities); nursing homes; hospitals; nonprofit organizations; and public schools. If, after doing so, the commissioner determines that there is an excess supply of PPE, she must offer to sell it to other private entities at fair market value. The commissioner must establish orders of priority for the entities that may access the state's PPE stockpiles.

Expiring PPE

When any stockpiled PPE is within one year of expiring, the bill requires the commissioner to offer to sell it at no more than fair market value to, in this order: private nursing homes in the state, federally

qualified healthcare centers in the state, hospitals, nonprofit hospitals and entities that provide direct medical care in the state, public school districts in the state, and private schools and nonpublic charter schools in the state. To the extent feasible, expired PPE must be disposed of in an environmentally sound way.

Annual Report

The bill requires DEMHS, in consultation with DPH and DAS, to submit an annual report on the status of the stockpiles to the governor and legislature. The reports must include data on the price the state paid for the PPE and any PPE the state sold. They must be available to the public on the division's web site.

§ 9 — PPE EVALUATION, DISTRIBUTION, AND APPROVAL PROCESS

Requires DEMHS to establish a process to evaluate, distribute, and approve PPE for use during public health emergencies

The bill requires DEMHS, in consultation with DPH, to establish a process to evaluate, distribute, and approve PPE for use during public health emergencies. The process must (1) be designed to help the production of PPE by businesses that do not otherwise produce it and are not federally-approved to do so, (2) prioritize businesses that manufacture PPE in Connecticut, and (3) require DAS to help review the businesses to ensure they are legitimate and do not have any unresolved safety or health citations.

§ 10 — PPE REQUIREMENTS FOR HEALTHCARE AND LONG-TERM CARE PROVIDERS

Requires health care providers and long-term care providers to maintain enough new PPE for 90 days of surge consumption during a state of emergency; allows for exemptions and DPH waivers under certain circumstances

Starting January 1, 2023, or one year after DPH adopts regulations (see below), whichever is later, the bill requires each covered provider (i.e., a health care provider or long-term care provider) to maintain an unexpired inventory of new PPE sufficient for 90 days of surge consumption during a declared state of emergency or local emergency for a pandemic or other health emergency, as determined by the DPH

commissioner. Each covered provider must provide an inventory of its PPE to DPH upon request. The bill subjects violators to a $25,000 civil penalty unless they have a waiver from DPH or the department exempts them as allowed under the bill (see below).

The bill requires the covered provider that controls or owns a facility to maintain the required PPE even if another covered provider provides services in the facility. It also requires a covered provider to (1) supply PPE to its health care workers and long-term care workers and (2) require that they use it.

Covered Providers

Under the bill a "health care provider" is any person, corporation, limited liability company, facility, or institution operated, owned, or licensed by the state to provide health care or professional services. It includes their officers, employees, or agents acting in the course and scope of their employment. But it does not include an independent medical practice that one or more licensed physicians own and operate, or maintain as a clinic or office, to practice their profession within the scope of their license, unless it is operated or maintained exclusively as part of an integrated health system or health facility.

A "long-term care provider" is home health care agency, home health aide agency, behavioral health facility, alcohol or drug treatment facility, assisted living services agency, or nursing home.

Waivers and Exemptions

The bill allows a covered provider to apply to DPH, in writing, for a waiver of some or all of the above PPE inventory requirements. DPH may approve it if the covered provider has 25 or fewer employees and agrees to close in-person operations during a public health emergency in which DPH recommends increased use of PPE. The provider cannot return to in-person operations until sufficient PPE becomes available to the provider.

The bill also allows DPH to exempt a covered provider from the civil penalty if supply chain limitations make meeting the required supply

level infeasible, and the covered provider (1) made a reasonable attempt to obtain PPE, as determined by DPH, or (2) shows that meeting the required supply level is not possible due to issues beyond its control (e.g., the provider ordered PPE but the order was not fulfilled or the PPE was damaged in transit or stolen).

The bill exempts a covered provider from the civil penalty if its PPE inventory falls below the required supply level because it distributed PPE to its health care workers or long-term care workers, or to another covered provider's workers, during a state of emergency declared by the governor or a declared local emergency for a pandemic or other health emergency. But the covered provider must replenish its inventory to the required level within 30 days after the inventory falls below the required level, if DPH determines that there is no supply limitation.

DPH Regulations

The bill requires DPH to adopt regulations to carry out these provisions. The regulations must also establish requirements for 90 days of surge consumption during a state of emergency, including the types and amount of PPE that a covered provider must maintain based on the (1) type and size of each covered provider and (2) composition of health care workers and long-term care workers in its workforce. The regulations cannot establish policies or standards that are less protective or prescriptive than any federal, state, or local law on PPE standards.

§ 11 — HOSPITAL AND NURSING HOME DATA

Requires hospitals and nursing homes to collect and post certain data related to their COVID-19 cases

The bill requires each acute care hospital and nursing home to collect data on COVID-19 in a form set by the DPH commissioner. They must do so (1) daily during the current COVID-19 public health and civil preparedness emergencies and then (2) monthly after they expire. The data must be based on nationally recognized and recommended standards and include:

1. current inpatient data on COVID-19 cases, hospitalizations, and

deaths;

2. the number of employees exposed to COVID-19 and exhibiting its symptoms who were tested for it;

3. the number of asymptomatic employees tested for COVID-19;

4. the number of COVID-19 vaccines administered;

5. census data on beds and ventilators; and

6. a PPE inventory, including the quantity in possession and the utilization rate.

The bill requires each hospital and nursing home to post the data to its internet website each day during the current COVID-19 public health and civil preparedness emergencies and then quarterly after they expire.

§§ 12-19 & 32 — PANDEMIC PAY

Establishes a grant program and requires employers to apply for grants that they must use to provide additional pandemic pay to their essential employees ($5 per hour) and specialized risk employees ($10 per hour.) for their hours worked mitigating or responding to the COVID-19 emergency between March 20, 2020, and April 30, 2021

Grant Program (§ 13)

The bill establishes the Essential Employees Pandemic Pay Grant Program within the Department of Social Services (DSS) to administer and award grants to employers whose covered employees were engaged in activities substantially dedicated to mitigating or responding to the COVID-19 public health and civil preparedness emergencies between March 20, 2020, and April 30, 2021. It requires that at least 15% of unrestricted funds received by the state from January 1, 2021, to July 1, 2021, for COVID-19 relief be appropriated to fund grants under the program.

The bill requires employers that employed covered employees to apply to DSS for a grant in an amount sufficient to make the required pandemic pay payments to their covered employees (see below). They must do so by July 1, 2021, or within 60 days after the program is available, whichever is later. DSS must issue the grants within 30 days

after the applications are due. If the amount appropriated to the program is insufficient to fund the full amount of the grants, DSS must prorate the grant amounts.

Covered Employees & Employers (§ 12)

Under the bill, "covered employees" are (1) "essential employees" and (2) "specialized risk employees."

"Essential employees" are those employed in a category that the Centers for Disease Control and Prevention's (CDC's) Advisory Committee on Immunization Practices, as of February 20, 2021, recommended to receive a COVID-19 vaccination in phase 1b of the COVID-19 vaccination program. (These include firefighters, police officers, corrections officers, food and agricultural workers, U.S. Postal Service workers, manufacturing workers, grocery store workers, public transit workers, education sector workers, and child care workers.)

"Specialized risk employees" are (1) anyone employed in a category that the CDC's Advisory Committee on Immunization Practices, as of February 20, 2021, recommend to receive a COVID-19 vaccination in phase 1a of the COVD-19 vaccination program (i.e., health care personnel); (2) first responders; (3) employees required to work in congregate settings or with persons infected with COVID-19; and (4) people who provide personal care assistance (PCAs) under a state-funded program, such as the Connecticut Home Care Program for Elders.

"First responders" are peace officers (e.g., police officers), firefighters, people employed as firefighters by a private employer, ambulance drivers, emergency medical responders, emergency medical technicians, advanced emergency medical technicians or paramedics, and telecommunicators (i.e., 9-1-1 emergency dispatchers).

"Employers" covered by the bill are employers of a covered employee. It includes the consumers who receive services from a personal care attendant under a state-funded program (see § 16 below). (The bill does not specify this, but presumably employers include the

state and its political subdivisions.)

Pandemic Pay (§ 14)

The bill requires each employer that receives a pandemic pay grant to pay each of its covered employees additional compensation for each hour they worked between March 20, 2020, and April 30, 2021. The additional pandemic pay must be $5 per hour for essential employees and $10 per hour for specialized risk employees, or a prorated amount if the employer received a grant smaller than the one it applied for. The bill also prohibits employers from denying pandemic pay based on the quality or type of work the covered employee performed.

The bill requires employers to provide pandemic pay as a lump sum payment in a covered employee's first regularly scheduled wage payment after the employer receives the grant. If the employer cannot do this, the pandemic pay must be paid as soon as practicable, but no later than the employee's second regularly scheduled wage payment. If a covered employee entitled to pandemic pay dies before receiving it, the bill requires the employer to pay it to the employee's next of kin as a lump sum payment.

Pay Stubs. Under the bill, the pandemic pay must be clearly demarcated as a separate line item in a paystub or other document provided to a covered employee that details the employee's pay for the pay period. If the employee does not regularly receive a pay stub or this documentation from the employer, the employer must provide it while the employee is receiving pandemic pay.

The bill requires pandemic pay to be excluded from a covered employee's pay when (1) calculating eligibility for wage-based benefits offered by the employer or (2) computing the employee's regular rate for minimum wage, overtime pay, or any other wage-based employment standard or benefit.

Prohibited Acts. The bill prohibits employers who receive grants from reducing or in any way diminishing a covered employee's compensation from March 20, 2020, to June 30, 2021, from the level paid

to the employee on the day before the bill passes. It also prohibits employers from taking any action to displace a covered employee by reducing hours, wages, or employment benefits or hiring someone for an equivalent position paid at a lower rate than what was paid to the employee on the day before the bill passes.

PCAs and Consumers (§ 16)

For the consumers who employ state-funded PCAs, the bill requires the fiscal intermediaries (who pay the PCAs on behalf of the consumers) to meet the pandemic pay requirements and makes them solely responsible for the applicable penalties that would otherwise apply to the PCA's consumer. It allows DSS and the Department of Developmental Services to apply to the grant program for the funds that are reasonably required to compensate fiscal intermediaries for complying with the bill's pandemic pay provisions.

Enforcement (§§ 15, 17-19 & 32)

Failure to Apply for Grant or Pay Pandemic Pay. The bill subjects an employer who fails to apply for a grant, or who receives a grant but fails to make pandemic pay payments, to the statutory penalties for unpaid wages if it is an intentional violation (§§ 15 & 17). These laws impose penalties that depend on the amount of unpaid wages owed to an employee as follows:

1. for up to $500 in unpaid wages: a $200 - $500 fine, up to three months in prison, or both;

2. for $500 - $1,000 in unpaid wages: a $500 - $1,000 fine, up to six months in prison, or both;

3. For $1,000 - $2,000 in unpaid wages: a $1,000 - $2,000 fine, up to one year in prison, or both; and

4. for more than $2,000 in unpaid wages: a $2,000 - $5,000 fine and a class D felony (§ 17).

The bill also allows an employee to bring a lawsuit against an

employer who fails to apply for a grant or who receives a grant but fails to make pandemic pay payments (§§ 15 & 32). An employee who wins the lawsuit must recover twice the amount of pandemic pay owed unless the employer establishes a good faith belief that the underpayment complied with the law; in which case, the employee must recover the full amount of pandemic pay owed.

Retaliatory Actions. The bill subjects an employer who takes any action against an employee for invoking his or her right to pandemic pay to the $100 statutory fine for discharging or discriminating against the employee for testifying in a wage investigation or proceeding, and an additional $300 penalty the Department of Labor (DOL) may impose for general violations of the labor law (§§ 18 & 19).

EFFECTIVE DATE: Upon passage, except the conforming changes related to imposing fines for unpaid wages or retaliating against an employee are effective October 1, 2021.

§§ 20-25 — COVID-19 SICK LEAVE

Requires private-sector employers to provide their employees with up to 80 hours of additional COVID-19 paid sick leave that they can use for certain purposes related to COVID-19

Leave Requirement (§§ 20 & 21(a)-(b))

The bill requires all private-sector employers to provide their employees with additional COVID-19 sick leave that they can use for certain purposes related to COVID-19. They must provide at least 80 hours of this leave to employees who normally work 40 hours per week. Employees who work less than that must receive COVID-19 sick time that equals the amount of time they are scheduled to work or that they work on average over a two-week period, whichever is greater. Employees exempt from federal law's overtime pay requirements must be assumed to work 40 hours per week for leave accrual purposes, unless their normal work week is less than 40 hours. If it is, then their leave accrual must be based on their normal work week.

To calculate leave amounts for employees who work variable schedules of less than 40 hours per week, the bill requires employers to

use the employee's average weekly hours over the six months preceding the leave, including any leave hours that the employee took during that period. If the employee did not work over that period, the average must be the employee's reasonable expectation, at the time of hire, of the average number of hours per week that he or she would be regularly scheduled to work.

The bill requires that the leave be available to employees immediately and retroactively to March 10, 2020, regardless of how long they have been employed, and remain available until four weeks after the governor's emergency declarations (presumably over COVID-19) expire.

"Employers" who must provide COVID-19 sick leave are any person, firm, business, educational institution, nonprofit organization, corporation, limited liability company or other entity. This includes the state's Personal Care Attendant Workforce Council, which under the bill is the employer of people who provide personal care assistance (PCAs) under a state-funded program, such as the Connecticut Home Care Program for Elders. It does not include the federal government.

"Employees" eligible for COVID-19 sick leave under the bill are those engaged in service to an employer in the employer's business.

Reasons for Leave (§§ 20 & 21(c)-(d))

Under the bill, employees may use the COVID-19 sick leave when they are unable to work, including through telework, because they:

1. need to (a) self-isolate and care for themselves due to a COVID-19 diagnosis or symptoms; (b) seek COVID-19 preventive care; or (c) seek or obtain a diagnosis, care, or treatment for COVID-19 symptoms;

2. need to comply with an order or determination to self-isolate because of their possible exposure to COVID-19 or have COVID-19 symptoms, regardless of whether they were diagnosed with COVID-19, and their physical presence on the job or in the

community would jeopardize their health or that of other employees or someone in the employee's household (i.e., a quarantine order);

3. need to care for a family member who is (a) self-isolating or seeking preventive care, diagnosis, or treatment or (b) self-isolating due to a COVID-19 quarantine order;

4. were prohibited from working by their employer due to health concerns related to potential COVID-19 transmission;

5. are subject to an individual or general local, state, or federal quarantine or isolation order related to COVID-19;

6. need to care for a child or other family member whose care provider is unavailable due to COVID-19 or whose school or place of care has been closed by a local, state, or federal public official due to COVID-19 (including schools that are (a) physically closed but providing virtual learning, (b) requiring or allowing virtual learning, or (c) requiring or allowing a hybrid of in-person and virtual learning); or

7. have a health condition that may increase susceptibility to or risk of COVID-19, including age, heart disease, asthma, lung disease, diabetes, kidney disease, or a weakened immune system.

If the employee needs the leave to self-isolate due to a quarantine order, or to care for a family member who must self-isolate due to a quarantine order, the order must be from a local, state, or federal public official, a health authority with jurisdiction, or the employer of the employee or employee's family member. But it does not have to be specific to the employee or family member.

Under the bill, a "family member" for whom an employee may take COVID-19 sick leave is (1) the employee's spouse, child, parent, grandparent, grandchild, or sibling, whether related to the employee by blood, marriage, adoption or foster care, or (2) an individual related to the employee by blood or affinity whose close association with the

employee is the equivalent of those family relationships. A "parent" is a biological parent, foster parent, adoptive parent, stepparent, parent-in-law of the employee, legal guardian of an employee or an employee's spouse, an individual standing in loco parentis (i.e., in place of a parent) to an employee, or an individual who stood in loco parentis to the employee when the employee was a minor child.

COVID-19 Sick Leave Pay (§ 21(e))

The bill requires that an employee's pay for COVID-19 sick leave be the greater of the employee's normal hourly wage or the minimum wage. If an employee's hourly wage varies, the "normal hourly wage" is the employee's average hourly wage over the pay period prior to the one in which the employee uses the leave.

Employee Notice & Documentation (§ 21(f)-(g))

The bill requires an employee to give the employer advance notice about the need for COVID-19 sick leave as soon as practicable, but only if the need for leave is foreseeable and the employer's place of business has not been closed. It prohibits an employer from requiring an employee to provide documentation for COVID-19 sick leave.

Transfers & Successor Employers (§ 21(h))

The bill requires that employees maintain their accrued COVID-19 sick leave when (1) they transfer to a separate division, entity, or location with the same employer or (2) when a different employer succeeds or replaces an existing employer.

Employee Replacements (§ 21(i))

The bill prohibits employers from requiring that an employee search for or find a replacement worker to cover the hours during which the employee is using COVID-19 sick leave.

Other Benefits and Collective Bargaining Agreements (§ 22)

The bill specifies that its COVID-19 sick leave provisions do not (1) discourage or prohibit an employer from adopting or retaining a more generous COVID-19 sick leave, paid sick leave, or other paid leave

policy; (2) diminish any rights provided to an employee under a collective bargaining agreement; or (3) prohibit an employer from establishing a policy that allows employees to donate unused COVID-19 sick leave to other employees.

It also allows an employee to use the COVID-19 sick leave before using the paid sick leave provided by current law, as amended by the bill. And it prohibits an employer from requiring an employee to use other paid leave before using the COVID-19 leave.

Enforcement (§ 23)

The bill makes it illegal for an employer or anyone else to interfere with, restrain, or deny someone using or trying to use the bill's COVID-19 sick leave rights. It prohibits employers from taking retaliatory personnel actions or discriminating against an employee because the employee (1) requests or uses COVID-19 sick leave or (2) files a complaint with the labor commissioner alleging the employer's violation. Under the bill, a "retaliatory personnel action" is a termination, suspension, constructive discharge, demotion, unfavorable reassignment, refusal to promote, reduction of hours, disciplinary action, or other adverse employment action taken by an employer against an employee.

Complaints & Lawsuits. The bill allows an employee aggrieved by a violation of the bill's COVID-19 sick leave provisions to file a complaint with the labor commissioner. Upon receiving the complaint, the commissioner may hold a hearing. If he finds the employer in violation by a preponderance of the evidence, the bill imposes the same civil penalty allowed under the paid sick day law (up to $500) and allows the commissioner to award the employee appropriate relief (e.g., pay for used sick leave, rehiring). A party aggrieved by the commissioner's decision may appeal to the Superior Court.

The bill requires the labor commissioner to advise an employee who files a complaint and is covered by a collective bargaining agreement that provides for COVID-19 sick leave about the employee's right to

pursue a grievance with his or her collective bargaining agent.

The bill also allows anyone aggrieved by a violation of the bill's COVID-19 sick leave provisions, the labor commissioner, or the attorney general to bring a civil action in court without first filing an administrative complaint.

The bill requires the labor commissioner to administer these enforcement provisions within available appropriations.

Employer Notice & Records Requirements (§ 24)

Employer Notice. The bill requires employers to provide written notice to each employee (1) about the entitlement to COVID-19 sick leave, the amount of leave provided, and the terms under which it can be used; (2) that retaliatory personnel actions are prohibited; and (3) about the right to file a complaint with the labor commissioner or file a civil action. They must provide this notice within 14 days after the bill takes effect or at the employee's time of hiring, whichever is later.

The bill also requires employers to display a poster that contains the same information in both English and Spanish. If the employer does not maintain a physical workplace, or an employee teleworks or performs work through a web-based or app-based platform, the notification must be sent via electronic communication or a conspicuous posting in the web-based or app-based platform. The bill requires the labor commissioner to provide the posters and model written notices to all employers.

Additionally, the bill requires employers to include in employee pay stubs the number of hours, if any, of COVID-19 sick leave received and used by each employee in the calendar year.

Employer Records Requirements. The bill requires employers to retain records documenting the hours worked and COVID-19 sick leave taken by employees for three years. (The bill does not specify when this three-year period begins.) The employers must allow the labor commissioner to access them, with appropriate notice and at a mutually

agreeable time, to monitor compliance. For issues about an employee's entitlement to COVID-19 sick leave, if the employer does not maintain or retain adequate records, or does not allow reasonable access to them, the bill requires that it be presumed that the employer violated these recordkeeping requirements unless there is clear and convincing evidence otherwise.

DOL. The bill allows the labor commissioner to develop and implement a multilingual outreach program to inform employees, parents, and people under a health care provider's care about the availability of COVID-19 sick leave. The program may include notices and written materials in English and other languages.

It also requires the labor commissioner to promulgate appropriate guidelines or regulations to coordinate implementation and enforcement of the bill's COVID-19 sick leave provisions.

It requires the labor commissioner to administer these provisions on DOL's and the bill's employer notice and records requirements within available appropriations.

Disclosure of Health Information (§ 25)

Unless otherwise required by law, the bill prohibits an employer from requiring disclosure of the details of an employee's or an employee's family member's health information as a condition for providing COVID-19 sick leave. If an employer possesses this health information, it must be treated as confidential and not disclosed except to the employee or with the employee's permission.

§§ 26-27 — UNEMPLOYMENT TAX EXPERIENCE RATES

Disregards benefit charges and taxable wages between July 1, 2019, and June 30, 2021, when calculating an employer's experience rate; similarly disregards benefits and taxable wages for 2020 and 2021 when calculating the unemployment tax rate for new employers

The bill disregards an employer's benefit charges and taxable wages between July 1, 2019, and June 30, 2021, when calculating the employer's unemployment tax experience rate for taxable years starting on or after January 1, 2022. In effect, this means that the unemployment benefits

paid to an employer's former employees during that period will not affect the employer's experience rate. The bill's provisions apply to the extent allowed by federal law and as necessary to respond to the spread of COVID-19.

The bill similarly disregards the statewide benefits and taxable wages for calendar years 2020 and 2021 when calculating the unemployment tax rate that will apply to new employers for tax years starting on or after January 1, 2022 (see BACKGROUND). Thus, the rate charged to employers who have not participated in the system long enough to have their own experience rates will not be affected by the benefits paid during those years.

Experience Rates

By law, an employer's experience rate generally depends on the amount of unemployment benefits its former employees received during its "experience period," which is the three-year period preceding each June 30 when an employer's rate is calculated. Under current law, an employer's rate is determined by calculating the ratio between the amount charged to the employer's experience account (generally, the amount of benefits paid to its former employees) and the amount of the employer's taxable wages during the experience period. This ratio is converted to a percentage between 0.5% and 5.4%, which becomes the employer's experience rate (CGS § 31-225a(e)).

For tax years starting on or after January 1, 2022, the bill requires that an employer's experience period disregard the employer's benefit charges and taxable wages from July 1, 2019, through June 30, 2021, when applicable. Thus, an employer's experience rate would not be affected by the chargeable benefits paid to its employees during that period.

New Employer Rates

By law, employers that have not been chargeable with benefits for a long enough time to have their own experience rate calculated must pay 1% or the state's five-year benefit cost rate, whichever is higher. Under

current law, the state's five-year benefit cost rate is determined by dividing the total benefits paid to claimants over the previous five years by the five-year payroll over that period.

For tax years starting on or after January 1, 2022, the bill requires that the five-year benefit cost rate be calculated without the benefit payments and taxable wages for calendar years 2020 and 2021, when applicable. Thus, the statewide benefits paid during those years will not affect the rate charged to the new employers.

EFFECTIVE DATE: October 1, 2021

§ 28 — UNEMPLOYMENT BENEFIT ROUND-UP

Requires that an unemployment claimant's benefits be rounded up to the extent needed for the claimant to qualify for a program that provides 100% federally funded benefits for unemployment related to COVID-19

The bill codifies Executive Order 9P (2020). Therefore, it:

1. increases weekly unemployment benefits to $100 for claimants who (1) were eligible for less than $100 in weekly benefits during the weeks beginning July 26, 2020, and ending on September 5, 2020, and (2) had not exhausted their regular state unemployment benefits by July 26, 2020, and

2. allows claimants who receive this benefit increase to apply to the federally-funded Lost Wages Assistance program, which temporarily increases weekly benefits by $300 (to be eligible, claimants must be receiving at least $100 in weekly regular unemployment benefits).

The bill also requires that a claimant's benefits be similarly rounded up if an additional federal program is enacted to provide 100% federally-funded benefits for unemployment caused by or related to COVID-19 or the current COVID-19 public health and civil preparedness emergencies. If the new program requires claimants to have a minimum weekly regular unemployment benefit in order to qualify, the bill requires that the benefits of claimants who do not meet that minimum be increased so that they can be eligible for the new

program, as long as they have not exhausted their state regular unemployment benefits.

For both benefit "round-up" provisions, the bill (1) requires that reimbursing employers not be charged for the amount of increased benefits paid to their former employees (reimbursing employers directly reimburse the unemployment trust fund for benefits paid to their former employees) and (2) allows the labor commissioner to issue implementing orders.

§ 29 — FELONY UNEMPLOYMENT BENEFIT FRAUD

Increases, from $500 to $2,000, the financial threshold used to determine whether someone's unemployment compensation fraud is a misdemeanor or a felony

The bill increases, from $500 to $2,000, the financial threshold used to determine whether someone's unemployment compensation fraud is a misdemeanor or a felony. Under current law, someone who knowingly makes a false statement or fails to disclose a material fact to obtain or maintain unemployment benefits is guilty of a (1) class A misdemeanor if the fraud amounts to $500 or less or (2) class D felony if the amount is more than $500. The bill increases this threshold to $2,000.

§ 30 — PROJECT LABOR AGREEMENTS

Requires state agencies to consider using PLAs when they contract for a public works project worth at least $10 million; requires contractors bidding on those contracts to be prequalified by DAS

The bill requires each contracting authority acting under the prevailing wage laws to consider using a project labor agreement (PLA), under the law for using PLAs on public works projects, for state contracts worth at least $10 million. The PLA law allows a public entity to require a PLA for any public works project if it determines that it is in the public's interest to require one.

The bill requires that each contractor who bids on a state public works contract worth at least $10 million (1) be prequalified by DAS to perform the work required under the contract (current law allows, but does not require, contractors to seek DAS prequalification); (2) be enrolled in an apprenticeship program; and (3) if awarded the contract, to complete

the required work using its own employees (presumably, this means the contractor cannot subcontract for any of the work). The bill also specifies that the contractor must pay its employees at least the applicable prevailing wages (however, this would already be required by the prevailing wage law).

§ 31 — NOTICE OF HOSPITAL NURSING STAFF LEVELS

Requires hospitals to post certain information about their nursing staff levels and hours

The bill requires acute care and children's hospitals to calculate for each nursing unit, on a per shift basis, the total number of nurses and nurse's aides providing direct patient care to patients in the hospital. Under the bill, "nurses" include licensed advanced practice registered nurses (APRNs), registered nurses (RNs), and licensed practical nurses (LPNs).

The bill requires that each hospital post in each nursing unit (i.e., floor or unit), at the beginning of each shift, a clear and conspicuous notice with: (1) the name of the hospital; (2) the date; (3) the total number of APRNs, RNs, LPNs, and nurse's aides who will be responsible for direct patient care during the shift; (4) the total hours that each of them is scheduled to work during the shift; and (5) the total number of patients in the nursing unit.

Each hospital must also post, at the beginning of each shift, a clear and conspicuous notice with (1) the hospital's staffing matrix for the nursing unit and (2) the phone number or Internet website for someone to report a suspected violation of a requirement relating to staffing levels and direct patient care.

Under the bill, both of the above notices must be readily accessible and clearly visible to patients, employees, and hospital visitors, including people in wheelchairs. In addition, the hospitals must make all of the posted information available to the public for review upon request, and they must retain the information for at least 18 months after it was posted.

Lastly, the bill prohibits hospitals from discharging or discriminating

or retaliating against an employee for reporting a hospital's suspected violation of a regulatory requirement relating to staffing levels. It makes a hospital that violates this prohibition liable for treble damages and requires the hospital to reinstate the employee if the employee was terminated from employment. Under the bill, discriminating or retaliating against an employee includes the discharge, demotion, suspension, or any other detrimental change in terms or conditions of employment, or the threat of any of these actions.

EFFECTIVE DATE: October 1, 2021

BACKGROUND

Unemployment Tax Rate

By law employers pay state unemployment insurance (UI) taxes to support the state's Unemployment Trust Fund, which provides UI benefits to eligible claimants. An employer's state UI tax liability typically depends on three factors: (1) its experience rate, (2) the fund balance rate (a tax rate tied to the financial solvency of the state's unemployment trust fund), and (3) its taxable wage base (the amount of wages it paid that are subject to state UI taxes). Generally, the sum of the first two rates, which can range from 0.5% to 6.8%, applies against the first $15,000 of each employee's wages (the taxable wage base) (CGS § 31-225a).

Related Bills

sSB 658, reported favorably by the Labor and Public Employees Committee, is identical to § 7 in this bill.

SB 660, reported favorably by the Labor and Public Employees Committee, is identical to §§ 5 & 6 in this bill.

sSB 1030, reported favorably by the Public Health Committee, requires, among other things, (1) DPH to maintain at least a three-month supply of PPE for long-term care facilities and (2) the facilities' administrative heads to ensure they acquire the supply from DPH and maintain it for their staff.

HB 5377, reported favorably by the Labor and Public Employees Committee, is identical to §§ 26 & 27 in this bill.

sHB 6478, reported favorably by the Labor and Public Employees Committee, contains provisions (§§ 2-5) that are identical to §§ 1-4 in this bill.

sHB 6537, reported favorably by the Labor and Public Employees Committee, contains provisions (§§ 7-12) that are identical to §§ 20-25 in this bill.

sHB 6595, reported favorably by the Labor and Public Employees Committee, is identical to this bill.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute
Yea 9 Nay 4 (03/25/2021)